

**CODIFIED ORDINANCES OF BROOKLYN**  
**PART ELEVEN - PLANNING AND ZONING CODE**

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**CODIFIED ORDINANCES OF BROOKLYN**  
**PART ELEVEN - PLANNING AND ZONING CODE**

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**CHAPTER 1101**  
**Purpose**

**1101.01 Purpose.**

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**1101.01 PURPOSE.**

This Zoning Ordinance is enacted for the general purpose of promoting the public health, safety, morals and welfare of the residents of the City of Brooklyn; to protect the property rights of all individuals by assuring the compatibility of uses and practices within districts; to provide for adequate light and air; to facilitate the provision of public utilities and public services; to lessen congestion on public streets; to provide for the administration and enforcement of this Zoning Ordinance, including the provision of penalties for its violation; and for any other purpose provided in this Zoning Ordinance. (Ord. 1991-88. Passed 11-4-92.)



**CHAPTER 1105**  
**Establishment of Districts and Zone Map**

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| <b>1105.01 Purpose.</b><br><b>1105.02 Districts established.</b><br><b>1105.03 Incorporation of zone map.</b> | <b>1105.04 Interpretation of district boundaries.</b> |
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**1105.01 PURPOSE.**

The purpose of this chapter is to establish zoning districts in order to realize the general purposes set forth in this Zoning Ordinance, to provide for orderly growth and development, and to protect the property rights of all individuals by assuring the compatibility of uses and practices within districts; in accordance with the City of Brooklyn Master Plan, Ordinance 2006-32. (Ord. 2006-64. Passed 12-1-06.)

**1105.02 DISTRICTS ESTABLISHED.**

The following zoning districts are hereby established for the City of Brooklyn:  
 SF-DH Single Family Dwelling House District  
 D-H Dwelling House District  
 A-H Apartment House District  
 MF-PD Multi-Family Planned Development District  
 R-B Retail Business District  
 G-B General Business District  
 L-I Limited Industrial District  
 G-I General Industrial District  
 (Ord. 1991-88. Passed 11-4-92.)

**1105.03 INCORPORATION OF ZONE MAP.**

The districts established in Section 1105.02 are shown upon the Zone Map, which, together with all accompanying notations, references, rules and designations, is hereby adopted and made a part of this Zoning Ordinance, thereby having the same force and effect as if herein fully described in writing. The map entitled "Zone Map of the City of Brooklyn" with all its future additions, amendments, changes and supplements, designates the areas assigned to the respective use districts and their boundaries. (Ord. 1991-88. Passed 11-4-92.)

**1105.04 INTERPRETATION OF DISTRICT BOUNDARIES.**

- (a) The following rules shall be used to determine the precise location of any zoning district boundary unless such boundary is specifically indicated on the Zone Map:
- (1) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries;

- (2) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zone Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Zone Map;
- (3) Whenever any street, alley, or other public way is vacated by official Council action, the zoning district adjoining each side of such street, alley, or public way shall automatically be extended to the center of such vacation, and all areas within that vacation shall thenceforth be subject to all regulations appropriate to the respective extended district.

(b) All questions and disputes concerning the exact location of zoning district boundaries shall be resolved by the Board of Zoning Appeals.  
(Ord. 1991-88. Passed 11-4-92.)

## CHAPTER 1109 Definitions

### 1109.01 General rule of interpretation.

#### 1109.01 GENERAL RULE OF INTERPRETATION.

Words used in this Zoning Ordinance are used in their ordinary English usage. However, for the purpose of this Zoning Ordinance, certain words are herein defined and wherever used in this Zoning Ordinance shall be interpreted as follows, except where the context indicates a clearly different meaning.

- (a) Words used in the present tense include the future; the singular number includes the plural and the plural, the singular.
- (b) The word "shall" is a mandatory requirement, the word "may" is a permissive requirement.
- (c) The phrase "used for" shall include "occupied for," "intended for," "designed for" or "arranged for."
- (d) The word "lot" includes the word "plot."
- (e) The word "structure" includes the word "building."
- (f) The following terms shall, whenever used in this Zoning Ordinance, have the meaning herein indicated.
  - (1) **Abutting:** Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.
  - (2) **Accessory Building:** A subordinate building which is incidental to or customarily in connection with the principal building or use and which is detached from the principal building but located on the same lot with such principal building or use.
  - (3) **Accessory Use (or Structure):** A use, object, or structure constructed or installed on, above or below grade which is incidental to, or subordinate to, the principal building or use and is located on the same lot with such principal building or use.
  - (4) **Adult Entertainment Establishment:** An adult book store, adult motion picture theater, adult drive-in motion picture theater, or an adult only live entertainment business as further defined in Section 1129.01(d)(2)K.
  - (5) **Apartment:** A dwelling unit consisting of a room or suite of rooms in an apartment house, which room or suite is arranged, intended or designed to be occupied as the residence of a single family.

- (6) **Apartment House:** A building designed or intended to be occupied by three or more families living independently of each other in three or more dwelling units where the units are separated by party walls with varying arrangements of entrances.
- (7) **Automobile Sales, New, or New and Used:** Sale of new automobiles means a building and land used by a franchised automobile dealer principally for the sale of new automobiles. The sale of used automobiles may be permitted provided the inventory of used automobiles does not exceed fifty percent (50%) of the overall inventory at any one time.
- (8) **Auto Service Garage:** A building or part of a building, structure or space used for the retail sale of liquid fuel, lubricants and motor vehicle accessories, and for the making of repairs to motor vehicles, except that repairs hereinafter described as major repairs shall not be permitted. "Major repairs," as applied to motor vehicles, means replacement, installation or repair of the body, fender, clutch, transmission, differential, axle, spring or frame of a motor vehicle; repair of an engine or motor requiring removal of the cylinder head or crank case pan; repair to a radiator requiring removal thereof; spray painting; recapping or retreading tires; and all other replacements, installations or repairs of a similar nature.
- (9) **Basement:** A portion of a building partly or entirely underground whose ceiling or underpart of the floor above is four feet or less above the average finished ground elevation. The "average finished ground elevation" is the mean elevation of the finished grade around all of the exterior of the building.
- (10) **Building:** Any structure having a roof supported by or suspended from columns or walls and which is completely enclosed to serve as a shelter or enclosure for persons, animals, chattels or property of any kind. The term "building" does not include any vehicle or trailer (with or without wheels).
- (11) **Building Area:** The sum of the horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls.  
(Ord. 1991-88. Passed 11-4-92.)
- (12) **Building Height:** The vertical distance from the grade to highest point of the building. (Ord. 2006-64. Passed 12-1-06.)
- (13) **Building Line:** An imaginary linear extension of the building wall parallel to the street right-of-way line defining the limits of the front yard, or in the case of a corner lot, the side yard abutting the street.
- (14) **Building, Principal:** A building occupied by the main use or activity on the lot on which said building is located.
- (15) **Car Wash:** A building or area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices and/or which may employ hand labor.
- (16) **Conditional Use:** A use permitted in a district other than a principally permitted use, requiring a conditional use permit as defined in Section 1129.01 and approval of the Planning Commission and confirmation of Council, in accordance with the standards and procedures of Section 1141.02.
- (17) **Conditional Use Permit:** A permit issued by the Zoning Inspector upon approval by the City Planning Commission to allow a use other than a principally permitted use to be established within the district.
- (18) **Density:** The number of dwelling units permitted per acre of land.



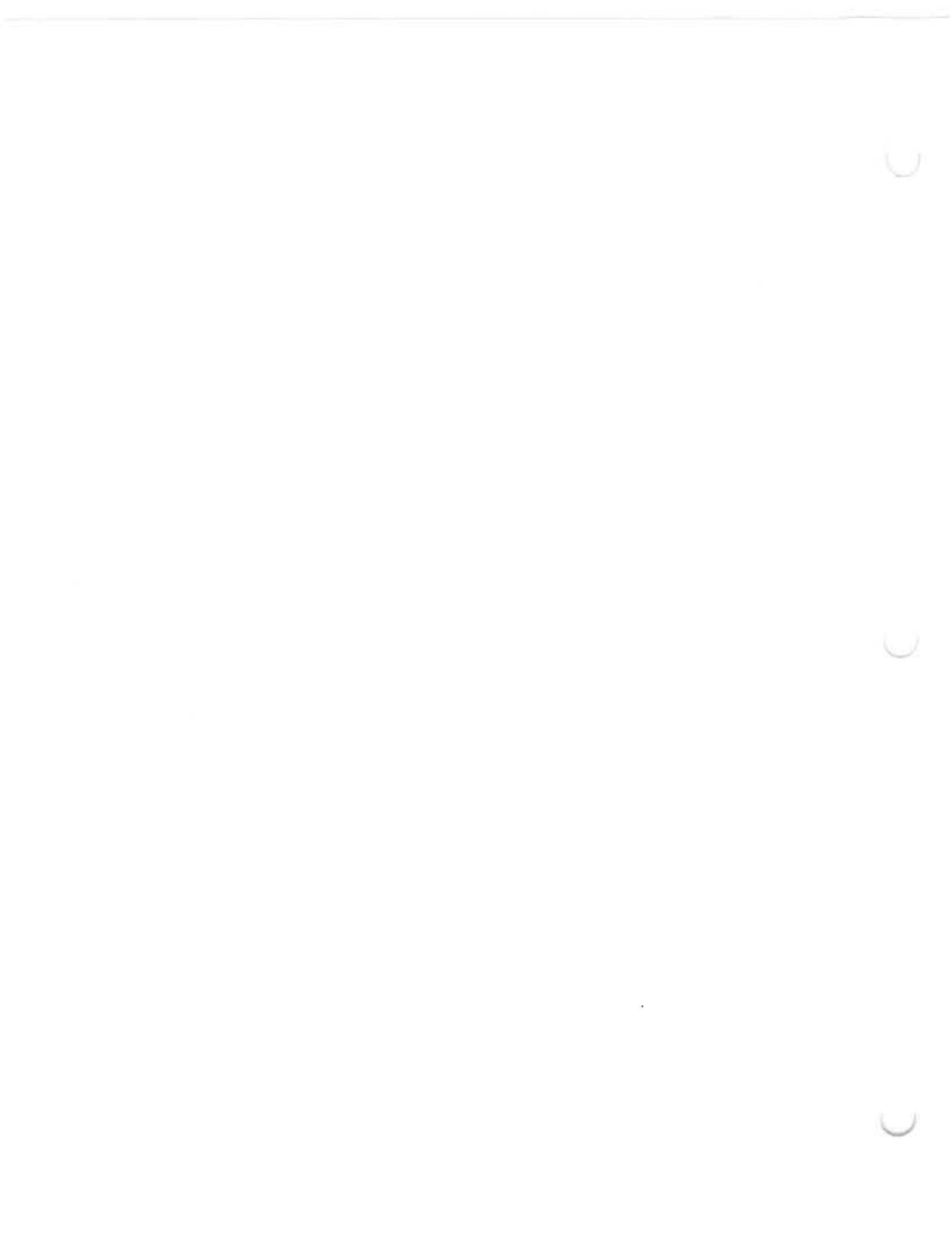
- (19) **District (Zoning District):** A section or sections of the territory of the City of Brooklyn for which the regulations governing the use of buildings and premises or the height and area of buildings are uniform.
- (20) **Drive-Thru Facility:** Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle. The term "drive-thru" shall also include "drive-up" and "drive-in."
- (21) **Dwelling:** Any building or portion thereof which is designed and used exclusively by one or more human occupants for the purpose of residing for an extended time. A dwelling may be comprised of more than one dwelling unit.
- (22) **Dwelling Unit:** Space, within a dwelling, comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing, and toilet facilities, all used by only one family living as a single housekeeping unit.
- (23) **Dwelling, Single-Family:** A building designed or arranged for use by a single family consisting of one dwelling unit only, separated from other dwelling units by open space.
- (24) **Dwelling, Two-Family:** A dwelling consisting of two dwelling units arranged, intended or designed to be occupied by two families only. One dwelling unit has its principal living area on the first floor and the other dwelling unit has its principal living area on the second floor.
- (25) **Duplex:** A dwelling consisting of two dwelling units arranged side by side, and intended or designed to be occupied by two families only.  
(Ord. 1991-88. Passed 11-4-92.)
- (26) **Family:** means an individual or two (2) or more persons living together as a single housekeeping group in a dwelling unit. A "single housekeeping group" exists where the group of individuals share expenses and labor related to the maintenance of the dwelling unit and are living and eating together as a household.
- (27)
  - A. **Fence:** A structure composed of non-living material, which may be constructed for privacy, security, screening or decoration.
  - B. **Living fence:** means a grouping of plants including, but not limited to, hedges, shrubs, bushes, or trees, arranged and/or growing in such a manner as to enclose, secure, partially enclose or secure, provide privacy for, decorate, define, or enhance all or any part of a lot. (Ord. 2006-64. Passed 12-1-06.)
- (28) **Garage, Parking:** A principal or accessory building or an enclosed space within the principal building in which motor vehicles owned by the general public are parked, including facilities operated as a business enterprise with a service charge or fee paid to the owner or operator of such facility, with no facilities for mechanical service or repair of a commercial or public nature.
- (29) **Garage, Private:** A detached accessory building or portion of the principal building designed to store motor vehicles and other normal household accessories of the residents of the principal building, with no facilities for mechanical service or repair of a commercial or public nature.
- (30) **Gasoline Station:** An establishment where liquids used as motor fuels are stored and dispersed into the fuel tanks of motor vehicles by an attendant or by persons other than the station attendant and may include facilities available for the sale of other retail products.

- (31) **Grade:** The average level of the finished surface of ground adjacent to the exterior walls of the building.
- (32) **Home Occupation:** An occupation for gain which is subordinate and incidental to the use of the premises as a dwelling, carried on by a person in the home in which he resides.
- (33) **Landscaped Area:** An area that is permanently devoted to and maintained for the growing of trees, shrubs, grass or other plant material.
- (34) **Laundry Counter Outlet:** A business that serves as a drop-off for dry-cleaning or laundry, but where no dry-cleaning processing is done on the premises.
- (35) **Loading Space, Off-Street:** An area located totally outside of any public right-of-way for the temporary parking of vehicles entering the premises for picking up and making delivery.
- (36) **Lot:** A parcel of land occupied or intended to be occupied by uses permitted in this Zoning Ordinance, which may include one or more principal buildings together with accessory buildings, and such lot shall be of sufficient size to meet minimum zoning requirements and have frontage on a dedicated street or an approved private street, and such lot may consist of:
  - A. A single lot of record;
  - B. A portion of a lot of record;
  - C. A combination of complete lots of record, portions of lots of record.The word "lot" is synonymous with "zoning lot."
- (37) **Lot of Record:** A lot or parcel of land the deed of which has been recorded in the office of the Recorder of Deeds of Cuyahoga County prior to the effective date of this Zoning Ordinance.
- (38) **Lot Area:** The area contained within the lot lines exclusive of any portion of the right-of-way of any public street.
- (39) **Lot Coverage:** The ratio of total ground floor area of all buildings on a lot to the area of the lot expressed as a percentage.
- (40) **Lot Line:** The boundary line defining the limits of the lot. Lot line is synonymous with "property line."
  - A. **Front Lot Line:** The line separating the lot from the street right-of-way on which the lot fronts. On a corner lot, the front lot line shall be the shorter lot line abutting a street except that if the lot is square (depth to width dimensions is a ratio of from 3:2 to 3:3) then the front lot line may be either lot line abutting a street.
  - B. **Rear Lot Line:** The lot line opposite and the most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
  - C. **Side Lot Line:** Any lot line other than a front or rear lot line.
- (41) **Lot Width:** The distance between the side lot lines measured along a straight line parallel to the front lot line at the required front setback line.
- (42) **Lot Types:** Terminology used in this Zoning Ordinance with reference to corner lots, interior lots and through lots is as follows:
  - A. **Corner Lot:** A lot abutting on two streets at their intersection where the angle of such intersection is not more than 135 degrees.

- B. Interior Lot: A lot with only one frontage on a street.
  - C. Through Lot: A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
- (43) Nonconformity: A lot, use of land, structure, or use of structures and land in combination lawfully existing at the time of enactment of this Zoning Ordinance or its amendments which do not conform to the regulations of the district in which they are situated, and are therefore incompatible with the purposes and regulations in this Zoning Ordinance.
- A. Nonconforming Use: Any building or land lawfully occupied by a use at the time of passage of this Zoning Ordinance or amendment thereto which does not conform with the use regulations of the district in which it is situated.
  - B. Nonconforming Site Condition: Any lot, building or structure lawfully existing on the effective date of this Zoning Ordinance or any amendment thereto, which does not conform to the lot area, width or yard regulations, parking or loading requirements, sign regulations, landscaping or screening requirements or other development standards of the district in which it is situated.
- (44) Nursing Home: An extended or intermediate care facility which provides skilled nursing and dietary care for persons who are ill or incapacitated or which provides service for the rehabilitation of the persons who are convalescing from illness or incapacitation, excluding homes or similar institutions or facilities for persons suffering from acute or chronic alcoholism or drug abuse or who regularly require restraint.
- (45) Outdoor Storage: The keeping, in an unroofed area, of any goods, material, merchandise, vehicles, or equipment in the same place for more than 24 hours.
- (46) Parking Lot (See also Garage, Parking): An area not within a building where motor vehicles may be stored for the purposes of temporary, daily or overnight off-street parking.
- (47) Parking Space, Off-Street: An open or enclosed area adequate for parking an automobile with room for opening doors on both sides, with access to a public street. Arrangement of the parking space shall be such as to allow ingress and egress of an automobile without the necessity of moving any other automobile, and shall be located totally outside of any public right-of-way.
- (48) Premises: A lot together with all buildings and structures thereon.
- (49) Public Safety Facility: A public facility providing services necessary for the safety of the residents of the City, including police, fire protection, and rescue activities.
- (50) Public Service Facility: A structure providing for public services such as power plants, or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public service structures operated by a public utility, by a railroad, whether publicly or privately owned, or by a municipal or other governmental agency.

- (51) **Recreational Vehicle:** A vehicular portable structure built on a chassis or designed to be mounted on or drawn by a motor vehicle and intended to be used for temporary occupancy for travel, recreational or vacation use.
- (52) **Repair Shop, Vehicle and Equipment:** A building or portion of a building in which structural repair, rebuilding or reconditioning of motor vehicles, equipment, or parts thereof, is conducted, including collision service; spray painting; body, fender, clutch, transmission, differential, axle, spring, and frame repairs; major overhauling of engines requiring the removal of the engine cylinder, head or crankcase pan; repairs to radiators requiring the removal thereof; complete recapping or retreading of tires; or similar activities.
- (53) **Restaurant, Table Service:** A retail service establishment, wherein the entire business activity, or substantially all of the business activity, consists of the sale of food to patrons seated at tables for consumption within the building.
- (54) **Restaurant, Counter Service:** A retail service establishment whose principal business is the sale of foods, frozen desserts, or beverages in ready-to-consume individual servings, for consumption either within the restaurant building or for carry-out, and where customers are not served their food, frozen desserts, or beverages by a restaurant employee at the same table or counter where the items are consumed.
- (55) **Right-of-Way.** A strip of land taken, dedicated, or otherwise recorded as an irrevocable right-of-passage for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, water and sewer lines, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges. "Right-of-way line" is a line separating the right-of-way from a lot, and is synonymous with "street line."
- (56) **Setback:** The required minimum horizontal distance between a lot line and a structure as established by this Zoning Ordinance.
- (57) **Setback Line:** (See also Yard, Required): A line established by this Zoning Ordinance generally parallel with and measured from the lot line, defining the limits of the required yard in which no building, or structure may be located above ground, except as may be provided in this Zoning Ordinance. The term "setback line" shall also include "required setback line."
- (58) **Sign:** Any identification, description, illustration or device which is affixed to or integrated into a building, structure or land, or otherwise situated on a lot and which is intended to direct or attract attention to, or announce or promote a product, place, activity, person, institution or business by means of letters, words, designs, colors, symbols, flags, banners, fixtures, images or illuminations.
- (59) **Story:** The part of a building other than a basement or half-story between any floor and the floor above, or, in its absence, the ceiling or roof above.
- (60) **Street Center Line:** A line halfway between the street right-of-way lines.
- (61) **Street Line:** See right-of-way.
- (62) **Structure:** Anything constructed or erected, the use of which requires a fixed location on the ground or is attached to something having a fixed location on the ground, and including, but not limited to buildings, advertising signs, fences, backstops for tennis courts, decks, pools, patios, paved areas, sidewalks and gazebos.

- (63) **Structural Alteration:** Any change that would prolong the life of the supporting members of a building or structure, such as the bearing walls, columns, beams or girders.
  - (64) **Variance:** A variance is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.
  - (65) **Yard:** An open space on the same lot with a principal building that lies between the principal building and the nearest lot line, unoccupied and unobstructed by any portion of the structure from the ground upward, except for accessory uses, structures or buildings as expressly permitted in this Zoning Ordinance.
  - (66) **Yard, Front:** A yard across the full width of the lot extending from the front wall of the principal building to the front line of the lot. On corner lots, the front yard shall face the shorter street dimension of the lot except that if the lot is square or almost square; i.e., has depth to width dimensions in a ratio of from 3:2 to 3:3, then the front yard may face either street.
  - (67) **Yard, Rear:** A yard across the full width of the lot extending from the rear wall of the principal building to the rear lot line of the lot. On a corner lot, the rear yard shall be the area between the side lot line abutting an interior lot to the side yard abutting a street.
  - (68) **Yard, Required (See also Setback Line):** The open space between a lot line and a setback line that is the minimum area required to comply with the regulations of the district in which the lot is located, and within which no structure shall be located except as expressly permitted in this Zoning Ordinance.
  - (69) **Yard, Side:** A yard between the principal building and the side lot line and extending from the front yard to the rear yard on an interior lot.
  - (70) **Yard, Corner Side:** On a corner lot the yard between the principal building and the side lot line adjacent to the street and extending from the front yard to the rear lot line.
  - (71) **Yard, Width or Depth:** The horizontal distance from a lot line to the principal building measured perpendicular to the building.
  - (72) **Zoning Inspector:** The individual designated by the Mayor to administer and enforce the Zoning Ordinance of the City of Brooklyn, Ohio.
  - (73) **Zoning Lot:** See lot. (Ord. 1991-88. Passed 11-4-92.)
- (g) Notwithstanding any other provision of this Zoning Ordinance, no word or phrase in this Zoning Ordinance shall be construed to mean or to permit medical marijuana to be cultivated, manufactured or dispensed, which uses are specifically prohibited in all zones in the City. As used herein, "medical marijuana" shall have the same meaning as in R.C. 3796.01, and "cultivate," "manufacture" and "dispense" shall have the same meaning as in Ohio Admin. Code 3796:1-1-01. (Ord. 2017-67. Passed 10-10-17.)



## **CHAPTER 1113 General Provisions**

**1113.01 Interpretation of standards.**  
**1113.02 Validity.**

**1113.03 Conformance.**  
**1113.04 Effective date.**

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### **1113.01 INTERPRETATION OF STANDARDS.**

In their interpretation and application, the provisions of this Zoning Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. Whenever the requirements of this Zoning Ordinance conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive, or that imposing the higher standards, shall govern. (Ord. 1991-88. Passed 11-4-92.)

### **1113.02 VALIDITY.**

The sections and subsections of this Zoning Ordinance and the several parts, provisions and regulations thereof are hereby declared to be independent sections, subsections, parts, provisions and regulations, and the holding of any such section, subsection, part, provision or regulation thereof to be unconstitutional, void or ineffective for any cause shall not affect nor render invalid any other such section, subsection, part, provision or regulations thereof. (Ord. 1991-88. Passed 11-4-92.)

### **1113.03 CONFORMANCE.**

No land or structure shall be used or occupied and no structure shall be erected, constructed, reconstructed, enlarged, moved or structurally altered, except in conformity with all of the regulations herein specified as being applicable to such land or structure. No yard or lot existing upon the effective date of this Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Zoning Ordinance shall meet at least the minimum requirements herein established. (Ord. 1991-88. Passed 11-4-92.)

### **1113.04 EFFECTIVE DATE.**

This Zoning Ordinance shall become effective from and after the date of its approval and adoption, as provided by law. (Ord. 1991-88. Passed 11-4-92.)





**CHAPTER 1117**  
**Residential District Regulations**

<b>1117.01</b>	<b>Statement of purpose.</b>	<b>1117.04</b>	<b>Development standards for MF-PD District.</b>
<b>1117.02</b>	<b>Permitted uses.</b>	<b>1117.05</b>	<b>Accessory use regulations.</b>
<b>1117.03</b>	<b>Principal use regulations in SF-DH, D-H and A-H Districts.</b>	<b>1117.06</b>	<b>Conditional use regulations.</b>

**1117.01 STATEMENT OF PURPOSE.**

Residential Districts and their regulations are hereby established in order to achieve, among others, the following purposes:

- (a) To regulate the bulk and spacing of buildings or other structures in order to assure proper light, air, privacy and usable open space and to assure adequate access for emergency vehicles and equipment;
- (b) To regulate the density and distribution of population in order to avoid congestion and to maintain adequate services;
- (c) To protect residents from objectionable influences such as abnormal vehicular traffic, offensive noises, noxious fumes, odors and dust;
- (d) To foster a variety of residential living types through various densities suitably located;
- (e) To protect the desirable characteristics of existing residential development and to promote the most desirable and beneficial use of the land
- (f) To assure that new construction, renovations, and uses are in accordance with the City of Brooklyn Master Plan, Ordinance 2006-32.  
 (Ord. 2006-64. Passed 12-1-06.)

**1117.02 PERMITTED USES.**

In a Residential District, land and structures may be used or occupied, and structures may be erected, reconstructed, enlarged or moved or structurally altered, only for a principal use specified for such District in subsection (a) hereof, a conditional use in accordance with subsection (b) hereof, or an accessory use to a permitted principal or conditional use in accordance with subsection (c) hereof.

- (a) Principal Uses in Residential Districts. The principal uses enumerated in Schedule 1117.02(a) are permitted by right in the district indicated provided that all requirements of other City Ordinances and this Zoning Ordinance have been met.

## Schedule 1117.02(a)

## PRINCIPAL USES

<u>Permitted Principal Uses</u>	<u>SF-DH District</u>	<u>D-H District</u>	<u>A-H District</u>	<u>MF-PD District</u>
Single Family Dwelling	X	X	X	X
Two-Family Dwelling		X	X	X
Duplex Dwelling		X	X	X
Apartments			X	X

- (b) Conditional Uses in Residential Districts. The categories of conditional uses which may (together with their accessory uses) be permitted in the SF-DH, D-H, A-H and MF-PD Districts, provided they conform to the conditions, standards, and requirements of Section 1129.01 and are approved for a particular zoning lot in accordance with the administrative procedures of Section 1141.02, shall include the following:

- (1) Schools;
- (2) Libraries and museums;
- (3) Religious facilities;
- (4) Parks and playgrounds;
- (5) Municipal recreation facilities;
- (6) Hospitals other than for the care of the insane or feeble-minded.
- (7) Public safety facilities.  
(Ord. 1991-88. Passed 11-4-92.)
- (8) Accessory parking, as regulated in Section 1129.01(m).  
(Ord. 2006-64. Passed 12-1-06.)

- (c) Accessory Use in Residential Districts. Accessory uses, buildings and structures subject to regulations in Section 1117.05(a) and as specified below, are permitted in association with and subordinate to a permitted principal or conditional use in the SF-DH, D-H, A-H and MF-PD Districts and include, but are not limited to, the following:

- (1) Home occupations, as regulated in Section 1117.05(b);
- (2) Accessory buildings, such as garages, storage buildings and, in the A-H and MF-PD Districts, community center buildings;
- (3) Accessory structures, such as off-street parking areas, as regulated in Section 1129.02, porches and decks, patios, swimming pools, as regulated in Section 1117.05(d), and other private recreational structures;
- (4) Signs, as regulated in Section 1129.03.
- (5) Fences, as regulated in Section 1117.05(c).  
(Ord. 1991-88. Passed 11-4-92.)

### 1117.03 PRINCIPAL USE REGULATIONS IN SF-DH, D-H AND A-H DISTRICTS.

Permitted principal uses in any SF-DH, D-H, and A-H District, as specified in Schedule 1117.02(a), may be erected, reconstructed, enlarged or moved or structurally altered, only as in compliance with the regulations and requirements of subsections (a) through (h).

- (a) **Minimum Lot Area and Width.** The minimum area and width of a lot in any SF-DH, D-H and A-H District that may be used for purposes of a dwelling are specified in Schedule 1117.03(a).

Schedule 1117.03(a)  
MINIMUM LOT AREA AND WIDTH

<u>District</u>	<u>Type of Dwelling</u>	<u>Minimum Lot Area</u>	<u>Minimum Average Lot Width</u>
SF-DH	Single Family	10,000 sq. ft./dwelling unit	75 ft.
D-H	Single Family	6,000 sq. ft./dwelling unit	65 ft.
	Two-Family	3,000 sq. ft./dwelling unit	65 ft.
	Duplex	3,000 sq. ft./dwelling unit	65 ft.
A-H	Single Family	6,000 sq. ft./dwelling unit	65 ft.
	Two-Family	3,000 sq. ft./dwelling unit	65 ft.
	Duplex	3,000 sq. ft./dwelling unit	65 ft.
	Apartment House	6 dwelling units/each 6,000 sq. ft.	65 ft.
MF-PD	See Section 1117.04(a)		

- (b) **Maximum Lot Coverage.** A principal building in any SF-DH, D-H and A-H District shall not cover more than twenty-five percent (25%) of the area of the lot on which the building is located.
- (c) **Minimum Yard Requirements.**
- (1) **Yards required.** Every permitted use of land and structures shall be located on a zoning lot in such a manner as to create and preserve a front yard adjacent to each street on which such lots abut, a side yard or yards and (except in the case of corner or through lots) a rear yard, conforming to the requirements of Schedule 1117.03(c) (the "required yards").

## Schedule 1117.03(c)

## MINIMUM YARD REQUIREMENTS

District	Type of Dwelling	Minimum Dimensions in Feet		
		Front Yard Depth	Rear Yard <sup>(a)</sup> Depth	Side Yard Width <sup>(a)</sup> Min./Sum
SF-DH	Single Family	40	35	5/15
D-H	Single Family	35	30	3/11
	Two-Family	35	30	3/11
	Duplex	35	30	3/11
A-H	Single Family	20	30	(c)/11
	Two-Family	20	30	(c)/11
	Duplex	20	30	(c)/11
	Apartment	20	30 <sup>(b)</sup>	(c)/11
MF-P D	See Section 1117.04(c)			

Notes for Schedule 1117.03(c)

- (a) In cases where the rear lot line is not parallel with or the side lot lines are not perpendicular to the street line, average dimensions may be used.
- (b) Plus one additional foot of depth for every foot of building height exceeding 35 feet.
- (c) Minimum required side yard is equal to one-sixth of the height of the abutting wall, but no less than 5 feet at any point. If the abutting wall, parallel to the property line, exceeds 70 feet in length, one-half (½) foot of additional setback is required for each additional foot of wall length exceeding 70 feet, but in no case shall a side yard setback be required of greater than 120 feet.

- (2) Additional requirements for corner lots. For a corner lot, the width of the side yard adjacent to the street line shall not be less than twenty-five (25) feet in any SF-DH District and not less than five (5) feet in any D-H and A-H District.
- (3) Partially built-up blocks. Where fifty percent (50%) of a block has been developed with a substantially uniform front building line having a greater or lesser average front yard setback than required by Schedule 1117.03(c), such substantially uniform front building line, as determined by the Planning Commission, shall establish the minimum depth of the front yard for each lot within such block.
- (d) Permitted Obstructions Within Required Yards.
- (1) Front yard. Between a building line and the street line, no building or portion of a building extending above the established grade may be constructed between the building line and the street line, except an open porch and no portion of such open porch may be built more than 10 feet beyond the front wall of such building.  
(Ord. 1991-88. Passed 11-4-92.)

- (2) **Side and rear yards.** The area of a required side yard or rear yard shall be open from the established grade or from the natural grade (if higher than the established grade) to the sky, unobstructed except for the ordinary projections of window sills, cornices, window air conditioners and other ornamental features. Ground mounted central air conditioning units shall be a minimum of 15 feet from an adjacent residential structure, and a minimum of 3 feet from a side or rear property line. Ground mounted central air conditioning units located in the side yard visible from a public street shall be screened from view.

(Ord. 2006-64. Passed 12-1-06.)

(e) **Landscaping and Screening Requirements.**

- (1) Except as otherwise provided in this Section, required yards, open space and treelawns shall not be obstructed by any structure and such areas, together with all other portions of the zoning lot not covered by permitted structures, shall be landscaped (including covering such areas with trees, shrubbery and grass or other appropriate ground cover or landscaping material) so as to assure absorption of rainfall, and prevent erosion and rapid run-off of surface water, and such landscaping shall be maintained.
- (2) When an apartment house dwelling abuts a SF-DH or D-H District, screening or buffering of buildings, parking and storage areas shall be provided in accordance with the following regulations, and shall be approved as part of the development plan required by Section 1141.03.
- A. Screening shall consist of one or a combination of the following:
1. A dense vegetative planting incorporating trees and/or shrubs of a variety(s) which shall be equally effective in winter and summer;
  2. A nonliving opaque structure such as a solid masonry wall, solidly constructed decorated fence, or louvered fence;
  3. A landscaped mound or berm.
- B. The height of screening shall be in accordance with the following:
1. Visual screening walls, fences, or mounds and fences in combination shall be a minimum of 5 feet high in order to accomplish the desired screening effect.
  2. Vegetation shall be planted with a minimum height of 4 feet.
- C. All screening shall be free of advertising or other signs, except for directional signs and other signs for the efficient flow of vehicles.
- D. The desired screening effect shall be achieved not later than 12 months after the initial installation. Thereafter, required landscaping shall be maintained in healthy condition by the current owner or property owner's association, and replaced when necessary. Replacement material shall conform to the original intent of the landscape plan.

(f) **Height Regulations.**

- (1) **Maximum height established.** The maximum height of any structure for a permitted principal or accessory use in any SF-DH, D-H and A-H District is set forth in Schedule 1117.03(f), except as otherwise provided in subsection (f)(2).

## Schedule 1117.03(f)

## MAXIMUM HEIGHT REGULATIONS

<u>District</u>	<u>Building Classification</u>	<u>Maximum Height</u>
SF-DH	Principal	35 ft.
	Accessory	15 ft.(a)
D-H	Principal	35 ft.
	Accessory	15 ft.(a)
A-H	Principal	100 ft.
	Accessory	15 ft.(a)
MF-P D	See Section 1117.04(b)	

Notes for Schedule 1117.03(f)

- (a) In no case shall an accessory building located within 100 feet of the principal building exceed the height of the principal building.

- (2) Exceptions to height regulations. The following structures are not regulated by subsection(f)(1) hereof, but are regulated as follows:

- A. In a SF-DH or D-H District, the height of a church, school, public library, hospital, or municipal recreation building shall not exceed forty-two (42) feet.
- B. Height regulations shall not apply to the height of a church spire, belfry, clock tower, wireless tower, chimney flue, water tank, elevator bulkhead, stage tower, scenery lofts, flagpoles, aerials and antennas, and approved street lighting.

- (g) Minimum Floor Area Requirements. In order to provide healthful living conditions and to preserve the character of the neighborhood, dwelling units shall be erected, altered, moved, maintained or occupied only in accordance with the following standards. The minimum floor area of a dwelling unit shall not be less than specified in Schedule 1117.03(g).

## Schedule 1117.03(g)

## MINIMUM FLOOR AREA REQUIREMENTS

<u>Dwelling Type</u>	<u>With Basement</u>	<u>Without Basement</u>
Single Family		
1 story dwelling	1,050 sq. ft. <sup>(a)</sup>	820 sq. ft. <sup>(b)</sup>
1 ½ and 2 story dwelling	1,000 sq. ft. <sup>(c)</sup>	920 sq. ft. <sup>(b)</sup>
Two-Family	2,250 sq. ft. <sup>(d)</sup>	N.P.
Duplex	3,000 sq. ft. <sup>(e)</sup>	N.P.
Apartment	700 sq. ft. for a one bedroom unit, plus 100 sq. ft. for each additional bedroom.	

Notes for Schedule 1117.03(g)

- (a) Figure includes minimum required basement of 350 sq. ft.
- (b) Figure includes minimum required utility room of 120 sq. ft.
- (c) Figure includes minimum required basement of one-half the floor area of the first floor, and assuming a first floor 400 sq. ft.
- (d) Figure includes minimum required basement which shall be equal to the floor area of the first floor, which shall be 750 sq. ft.
- (e) Figure includes minimum required basement which shall be equal to the floor area of the first floor, which shall equal 1,500 sq. ft.

N.P. = Not Permitted

- (h) No Rear Houses or Apartments. In any Residential District, not more than one dwelling house or apartment house shall be erected on any numbered lot in a recorded subdivision; and every dwelling house or apartment house erected shall have access to, and shall front upon, a public street.  
(Ord. 1991-88. Passed 11-4-92.)

**1117.04 DEVELOPMENT STANDARDS FOR MF-PD DISTRICT.**

The construction, reconstruction, enlargement or alteration of a multi-family planned development shall conform to the regulations and requirements specified in subsections (a) through (e) hereof.

- (a) Area Regulations. In a MF-PD District, land and structures shall be developed in accordance with the following area regulations:

- (1) Development area. A multi-family planned development shall be located on a minimum development area of five (5) acres.

- (2) **Density.** A multi-family planned development shall contain no more than eight (8) dwelling units per acre.
- (3) **Requirements for density increase.** The Planning Commission may permit on development areas greater than ten (10) acres an increase in the density of dwelling units provided that the following amenities are included, but in no case shall the density exceed ten (10) dwelling units per acre.
  - A. **Construction material - increase in density of 12.5% if all exterior wall of main and accessory buildings are faced with masonry material such as brick or stone as approved by the Planning Commission.**
  - B. **Underground or attached garages - increase in density of 12.5% if required enclosed parking is provided underground or below each unit and does not add to the total building coverage.**
- (4) **Lot width.** In a MF-PD District, the minimum width of a lot at the building line is one-hundred fifty (150) feet. The minimum width of a lot at the lot line is one-hundred (100) feet.
- (5) **Building coverage.** A principal building in a MF-PD District shall not cover more than twenty-five percent (25%) of the area of the lot on which the building is located.
- (b) **Height Regulations.** In a MF-PD District, structures shall be developed and maintained in accordance with the following height regulations:
  - (1) **Buildings.** Principal and accessory buildings shall not exceed thirty (30) feet in height.
  - (2) **Accessory structures.** Fences, walls and other accessory structures which are not buildings shall not exceed six (6) feet in height, except fences enclosing tennis courts, which shall not exceed ten (10) feet in height.
  - (3) **Exceptions to height limitations.** Chimneys located on a main building may exceed the height limit established for buildings but are limited to a maximum height of ten (10) feet above the roof line. Approved street lighting is exempt from the height limitation of subsection (b)(2) hereof.
- (c) **Supplementary Development Standards.** In addition to the basic standards and requirements regulating principal and accessory structures as specified in subsections (a) and (b) above, a multi-family planned development must comply with the following supplementary development standards.
  - (1) **Parking requirements.** Two-and-one-half (2 ½) parking spaces shall be provided per dwelling unit. At least one (1) of these shall be enclosed.
  - (2) **Private open space.** Two hundred (200) square feet of adjacent private open space per unit shall be provided.
  - (3) **Common open space.** At least seven hundred and fifty (750) square feet of land per dwelling unit shall be reserved as common space in each MF-PD District. Land designated as common open space under the provisions of this Section shall conform with the characteristics described below:
    - A. **Common open space shall consist of land or a combination of land and water of such condition, size and shape as to be usable for active recreation and/or scenic enjoyment as appropriate to the site, the surrounding area, and the expected resident population. Such area shall contain no structures other than those related to recreational use and shall not include roads, parking areas or private open space as required in subsection (c)(2).**



- B. Required yard setback and buffer areas shall be excluded in the computation of common open space.
  - C. Consideration shall be given to the arrangement and location of common open space to take advantage of physical characteristics of the site and to place common open space within easy access and view of dwelling units. Common open space shall not be separated from the development by existing roads.
- (4) Storage space. There shall be a minimum of forty (40) square feet of enclosed, adjacent storage space per unit.
  - (5) Fire prevention. All dwelling units shall have at least smoke detectors and fire walls, as per code requirements.
  - (6) Pedestrian circulation. Each attached single family residential unit shall be served by a comprehensive walkway system adequately separated from vehicular circulation, connecting residential buildings to parking and recreation areas.
  - (7) Building placement and design.
    - A. Building design. In order to enhance privacy and encourage attractive building arrangements, the alignment of buildings should be varied and the facades of not more than every two (2) dwelling units shall be offset by at least sixteen (16) inches. Attractive variations in such things as facade, width, color, exterior materials, and roof lines shall be deemed desirable. Furthermore, parallel arrangements of buildings should be avoided.
    - B. Building placement. All buildings and structures within the development area shall have a minimum distance of twenty (20) feet between any other building or structure within the development area.
    - C. Dwelling unit area. All dwelling units or grouping of units shall conform to the following standards:
      - 1. Width. The width of any dwelling unit shall be a minimum of twenty (20) feet.
      - 2. Dwelling unit area. A one-bedroom dwelling unit shall be a minimum of 700 square feet in area, plus an additional minimum of 100 square feet for each additional bedroom.
    - D. Yard requirements.
      - 1. Perimeter yards of not less than fifty (50) feet shall be maintained along any public street line bordering the development area and yards of not less than thirty (30) feet along any other property line.
      - 2. No building shall be closer than twenty-five (25) feet to an internal street and no building shall be less than fifteen (15) feet from a parking bay or area other than the driveway area directly serving a dwelling.

- E. **Site design.** Attached single family developments shall be designed to complement the topography of the land in order to utilize natural contours, economize in the construction of utilities, reduce required grading and maximize the conservation of trees, water courses and other natural features. Natural features and other distinctive characteristics of the site shall be integrated into the plan to create functional variations in the arrangements of residences, open spaces and accessory uses.
  - F. **Modifications to area, yard and buffer requirements.** With respect, particularly to properties of irregular shape, unusual topography or limited size, the Planning Commission may modify requirements regarding areas, yards, buffers and distances between uses if compliance with these requirements is either clearly unfeasible or contrary to compliance with the design regulations and standards of this Section. However, the maximum permitted density shall not be increased by reason of this provision.
- (8) **Laundry area.** Every dwelling unit shall have a minimum of sixty (60) square feet enclosed within the dwelling unit for laundry purposes provided with the necessary and customary utility connections such as water, drains, air vent and gas and/or electric.
  - (9) **Garbage and rubbish disposal.** Every dwelling unit shall have a minimum area of twenty (20) square feet immediately adjacent to the dwelling unit for trash storage unless each unit is provided a trash compactor. Such area shall be screened from view by a fence or wall at least four (4) feet in height.
  - (10) **Landscaping.** Any portion of the development area not used for permitted main and accessory uses shall be landscaped with vegetative ground cover shrubs and trees in accordance with an overall landscaping plan acceptable to the Planning Commission. Such landscaping shall be maintained in good condition. In the development of property, existing trees and significant vegetation shall be retained wherever feasible and desirable.
- (d) **Public Street and Community Facilities.**
    - (1) All developments shall front on and have access to a major or secondary dedicated street.
    - (2) All development applicants shall provide to the Planning Commission, Council and City Engineer, information concerning their plans for providing sewer and water facilities to the tract. Such sewer and water facilities shall have sufficient capacity to serve the site without endangering the system's capacity to meet commitments elsewhere.
    - (3) All utilities shall be placed underground and approved by the Public Service Director or City Engineer.
    - (4) All public street improvements (paving, curbs, sidewalks, sanitary sewers, etc.) shall comply with the City standards. All private street improvements shall be approved by the Public Service Director or City Engineer.
  - (e) **Site Plan Review.** A proposed multi-family planned development shall be reviewed according to the requirements specified in Section 1141.03(a), included in these requirements an applicant shall supply six (6) copies of the final development plan to the Zoning Inspector and such plan shall contain the materials specified in Section 1141.03(a)(3). (Ord. 1991-88. Passed 11-4-92.)

**1117.05 ACCESSORY USE REGULATIONS.**

Accessory uses, buildings and structures permitted in Residential Districts shall conform to the following standards. Attached garages as part of a dwelling are subject to all yard requirements specified in Schedule 1117.03(c). (Ord. 1991-88. Passed 11-4-92.)

(a) General Regulations.

- (1) An accessory use customarily incident to the permitted principal or conditional use shall be permitted in Residential Districts only upon the same lot with the permitted principal or conditional use.
- (2) All accessory buildings including garages and storage buildings shall be located in the rear yard no less than three (3) feet from the side lot line and five (5) feet from the rear lot line, except that a detached garage may be located in the side yard provided the required side yard width is maintained between the garage and the side lot line. All accessory buildings on non-conforming lots shall be located in the rear yard no less than three (3) feet from the side lot line and three (3) feet from the rear lot line.
- (3) On a corner lot, the rear line of which is identical with the side line of an interior lot, no accessory building (if detached from the main building) shall be erected within eighteen (18) feet of any street line or within five (5) feet of the rear lot line for single family or two-family use.
- (4) A maximum of one (1) detached garage and one (1) additional accessory building shall be permitted on a lot.
- (5) The maximum area of a detached private garage shall not exceed 600 square feet and the maximum area of any additional accessory building shall not exceed 144 square feet.
- (6) The area occupied by accessory buildings shall not exceed twenty percent (20%) of the rear yard area, except that one 400 square foot garage may be placed in the rear yard of any building lot, no matter the lot coverage.
- (7) No accessory structures, other than fences, parking areas, and accessory buildings in SF-40 and D-H Districts, shall be located within three (3) feet of any side lot line and three (3) feet of the rear lot line, provided that in no case shall the area occupied by the sum total of all accessory structures (garages, sheds, decks, parking areas, etc.) exceed 2,000 square feet or sixty percent (60%) of the rear yard, whichever is greater.
- (8) The maximum height of accessory buildings is regulated according to Schedule 1117.03(f), regulating height in SF-DH, D-H, and A-H Districts, and Section 1117.04(b), regulating height in a MF-PD District.  
(Ord. 2006-64. Passed 12-1-06.)

(b) Home Occupations. A home occupation, as an accessory use, shall be permitted in a dwelling unit provided:

- (1) Only members of the family residing within the dwelling work therein;
- (2) The occupation is conducted wholly within the dwelling and the space used in the conduct of the home occupation shall not exceed more than twenty percent (20%) of the habitable floor area;
- (3) The residential character of the dwelling exterior is not changed;
- (4) No home occupation shall be conducted in an accessory building;
- (5) There shall be no direct sales of merchandise from the premises in connection with such home occupation;

- (6) Traffic shall not be generated by such home occupation in significantly greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
- (7) No equipment or process shall be used which will create any dust, noise, vibration, glare, fumes, odors or electrical interference beyond the lot.  
(Ord. 1991-88. Passed 11-4-92.)
- (c) **Residential Fences.** Before any fence shall be erected a permit shall be secured from the Building Inspector. Application for such permit shall be made in writing and shall be accompanied by plans or drawings showing the actual shape and dimension of the lot on which the fence is to be constructed, the exact location, height, length, type of material and type of construction of such proposed fence and the location of all buildings on the lot.
  - (1) In the front yard of a lot, fences and walls shall be permitted parallel to the front building line but not more than eight (8) feet from the front of the building and to a maximum height of three (3) feet.
  - (2) In the side and rear yard of a corner lot, fences and walls shall be set back a minimum of two (2) feet from the public right-of-way, with approval of the Zoning Inspector, so as not to create a safety hazard. Fences constructed in the rear yard adjacent to an interior lot line may be installed up to, but not on the lot line.
  - (3) Fences constructed in the side or rear yard adjacent to and parallel with another fence shall be installed with a minimum clearance between fences of eighteen (18") inches to allow for maintenance. The ground area between fences shall be covered weed-block fabric, and a suitable inorganic ground cover material to prevent weed growth.
  - (4) A fence shall not be located in a side yard between the front and rear building line, unless:
    - A. The driveway on the adjacent lot is located a minimum of two (2) feet from the side lot line, or
    - B. The fence is erected not less than one (1) foot from the side lot line, if the driveway on the adjacent lot is located within two (2) feet from the adjacent side lot line
  - (5) In the side and rear yards of any lot, the height of fences and walls shall not exceed six (6) feet, provided that the height of the fence shall not be greater than the distance to any residential structures when installed parallel to the residential structure. The height of fences and wall in a MF- PD District is regulated according to Section 1117.04(b).
  - (6) EDITOR'S NOTE: Former subsection (c)(6) was deleted by Ordinance 2013-10.
  - (7) Fences which enclose school grounds, public playgrounds, public swimming pools, tennis courts, or other public areas which are used for athletic purposes may be erected to a height in excess of six (6) feet with the approval of the Zoning Inspector.

- (8) Fences shall be of uniform design, and otherwise well maintained. All fences shall display the finished side of fence to adjacent properties and view from public street. Fence posts shall not face to adjacent properties or public street. No new barbed wires fences are permitted in Residential Districts.
  - (9) Living fences shall be limited to a maximum of three feet (3') high in the side and front yard, and arranged so as not to obstruct vision from motor vehicles. Living fences shall be limited to a maximum of eight feet (8') high in the rear yard. All living fences shall be trimmed so as not to be a nuisance to abutting properties.
  - (10) No electrically charged fences shall be permitted in the City.
  - (11) Fences in Commercial and Industrial Districts shall be installed and maintained in accordance with Sections 1121.04(b), and 1125.04(e).  
(Ord. 2006-64. Passed 12-1-06.)
- (d) Swimming Pools. Swimming pools constructed or maintained on private property shall be regulated as follows:
- (1) Any swimming pool shall be located a minimum of ten (10) feet from the rear or side lot lines of the lot on which it is situated and a minimum of ten (10) feet from any principal building.
  - (2) Any in-ground swimming pool must substantially conform to the natural grade of the surrounding land, and no part thereof, other than equipment such as a diving board and the like, shall be higher than one (1) foot above the grade.
  - (3) Every pool shall be so constructed that it can be drained into the municipal storm sewer, or have a sump pump located in its deepest part, for the purpose of pumping out all of the water to a storm sewer opening, except that if the pool is constructed on land not yet sewered the owner shall pump or drain water from the pool in such a manner as to cause no injury to other property in the vicinity of the pool.
  - (4) All lights used to illuminate the pool or surrounding areas shall be designed, located and installed as to confine the direct beams thereof to the lot on which the pool is located, and none of the lights shall be used after 11:00 p.m. if the pool is located within two hundred (200) feet of any building used for dwelling purposes.
  - (5) Any swimming pool maintained on private property shall be enclosed by a fence not less than four (4) feet but not greater than six (6) feet in height. The fence shall have a gate that shall be kept securely locked during the time the pool is not in use by the owner or by anyone using it with the owner's permission. Such fence shall be permitted in compliance with subsection (c) hereof.
  - (6) Before any swimming pool may be constructed a permit shall be secured from the Building Inspector. Application for such permit shall be made in writing and shall include plans and specifications for the pool and the enclosing fence, as well as plans showing the location of the pool with reference to lot lines and other buildings on the property and surrounding properties.
  - (7) Applicant for a swimming pool permit shall, at the time the application is filed, pay a fee established by the City Council.

- (e) Off-Street Parking Regulations. Off-street parking in Residential Districts shall be provided in accordance with Section 1129.02.
- (f) Sign Regulations. The use of signs in any Residential District shall conform to the regulations set forth in Section 1129.03. (Ord. 1991-88. Passed 11-4-92.)

**1117.06 CONDITIONAL USE REGULATIONS.**

The conditional uses enumerated in Section 1117.02(b) may be permitted in accordance with the provisions of Section 1129.01, and may be approved for a particular zoning lot in accordance with the administrative procedures of Section 1141.02.  
(Ord. 1991-88. Passed 11-4-92.)

## CHAPTER 1121 Commercial District Regulations

<b>1121.01</b>	<b>Statements of purpose.</b>	<b>1121.04</b>	<b>Accessory use regulations.</b>
<b>1121.02</b>	<b>Permitted uses.</b>	<b>1121.05</b>	<b>Conditional use regulations.</b>
<b>1121.03</b>	<b>Principal use regulations.</b>		

### **1121.01 STATEMENTS OF PURPOSE.**

Commercial Districts and their regulations are hereby established in order to achieve, among others, the following purposes:

- (a) To provide sufficient but not excessive land area for the business and commercial needs of the community.
- (b) To encourage the tendency of business to group in centers for the mutual advantage of customers and commercial establishments.
- (c) To prohibit business and commercial development which would create detrimental or blighting influences upon the premises or the neighborhood or which would be incompatible with or impair the enjoyment of the neighboring premises.
- (d) To insure the availability of suitable areas for business and commercial uses by discouraging unrelated uses in such areas.
- (e) To protect permitted development from congestion by requiring setbacks and limiting the bulk and density of development in relation to adjacent buildings and available land and by requiring sufficient off-street parking and loading facilities.
- (f) To promote the most desirable and beneficial use of land and structures in order to stabilize and protect the character and value of land development within the City.
- (g) To create a concentrated shopping environment in the R-B District that encourages shoppers to visit more than one store on a single trip.
- (h) To accommodate a wide range of commercial activities, along with outdoor storage and display, in the G-B District so as not to disrupt concentrated shopping areas and intrude upon residential areas.
- (i) To assure that new construction, renovations, and uses are in accordance with the City of Brooklyn Master Plan, Ordinance 2006-32.  
(Ord. 2006-64. Passed 12-1-06.)

**1121.02 PERMITTED USES.**

In the two Commercial Districts, land and structures may be used or occupied, and structures may be erected, constructed or reconstructed, enlarged, moved or structurally altered, only for a principal use specified for a particular district in subsection (a), a conditional use in accordance with subsection (b), or an accessory use to a permitted principal or conditional use in accordance with subsection (c).

- (a) **Principal Uses in R-B and G-B Districts.** The principal uses enumerated in Schedule 1121.02(a) are permitted by right in the district indicated, provided that all requirements of other City ordinances and this Zoning Ordinance have been met.
- (b) **Conditional Uses in R-B and G-B Districts.** The categories of conditional uses which may (together with their accessory uses) be permitted in the R-B and G-B Districts, provided they conform to the conditions, standards and requirements of Section 1129.01 and are approved for a particular zoning lot in accordance with the administrative procedures of Section 1141.02, are enumerated in Schedule 1121.02(a).

## Schedule 1121.02(a)

**PERMITTED PRINCIPAL AND CONDITIONAL USES  
IN R-B AND G-B DISTRICTS**

<u>Permitted Uses</u>	<u>R-B Retail Business District</u>	<u>G-B General Business District</u>
1. Office/Professional/Service/ Medical		
a. Financial establishment without drive-thru facilities; offices, including medical clinics; studios	P	P
b. Telephone exchanges		P
c. Wholesale sales offices, sample rooms, display rooms		P
d. Mortuaries; funeral homes	C	P
e. Hospitals	C	P
f. Urgent care clinics	C	P
g. Nursing homes; intermediate and long-term care facilities	C	P

P = Permitted use.

C = Conditional use.



## Schedule 1121.02(a) (Cont.)

PERMITTED PRINCIPAL AND CONDITIONAL USES  
IN R-B AND G-B DISTRICTS

<u>Permitted Uses</u>	<u>R-B Retail Business District</u>	<u>G-B General Business District</u>
2. Retail/Service		
a. Retail stores, such as grocery hardware and appliance, clothing and variety stores	P	P
b. Restaurants without drive-thru facilities	P	P
c. Drive-thru facilities	C	P
d. Night clubs, taverns	C	C
e. Barber shop; shoe repair	P	P
f. Dry cleaning, laundry counter outlets, self-service laundry	P	P
g. Carpet cleaning		P
h. Retail greenhouses, including outdoor storage		P
i. Produce markets	C	C
j. Custom arts and crafts, such as cabinetry		P
k. Monument sales		P
l. Hotels, motels	C	P
m. Bus station	C	P
n. Adult entertainment establishments	C	C

## Schedule 1121.02(a) (Cont.)

PERMITTED PRINCIPAL AND CONDITIONAL USES  
IN R-B AND G-B DISTRICTS

<u>Permitted Uses</u>	<u>R-B Retail Business District</u>	<u>G-B General Business District</u>
3. Automotive		
a. Gasoline stations	C	P
b. Auto service garages	C	P
c. Car washes	C	P
d. Automobile sales, new, or new and used	C	P
e. Truck, recreational vehicle, boat sales/rental		C
f. Parking garage	C	C
4. Commercial Entertainment/Recreation		
a. Theaters, indoor movie theaters, bowling alleys, skating rinks, dance halls, club rooms	C	P
b. Drive-in theaters		P
5. General Commercial		
a. Publishing and printing		P
b. Wholesale business with warehousing facilities		C
c. Steam laundries (no internal combustion engine)		P
d. Ice delivery stations		P
e. Utility substations	C	C

P = Permitted use.

C = Conditional use.

## Schedule 1121.02(a) (Cont.)

**PERMITTED PRINCIPAL AND CONDITIONAL USES  
IN R-B AND G-B DISTRICTS**

<u>Permitted Uses</u>	<u>R-B Retail Business District</u>	<u>G-B General Business District</u>
<b>6. Institutional</b>		
a. Schools	C	C
b. Religious facilities	C	C
c. Public libraries, museums	C	C
d. Public administrative offices	P	P
e. Municipal recreation buildings	C	C
f. Parks, playgrounds	C	C
g. Public safety facilities	C	C
h. Public service and maintenance facilities	C	C
<b>7. Other Similar</b>	<b>Uses as determined in Section 1141.05</b>	

P = Permitted use.

C = Conditional use.

- 
- (c) Accessory Uses in R-B and G-B Districts. Accessory uses permitted in R-B and G-B Districts are those which conform to the following standards:
- (1) Are customarily accessory and clearly incidental and subordinate to the permitted principal or conditional use.
  - (2) Do not involve the conduct of a trade or business except one related to and in furtherance of the permitted principal or conditional use and do not involve operations not in keeping with the character of the Districts.
  - (3) Are located on the same zoning lot as the permitted principal or conditional use, or on a contiguous lot in the same ownership.

- (4) Are not likely to be generators of significant numbers of visitors independently of visitors to the principal or conditional use, or satisfy all parking and loading requirements of this Zoning Ordinance for a permitted principal or conditional use.

Examples of uses which may, subject to the foregoing standards and to specific requirements of Section 1121.04, be permitted as accessory to a permitted principal or conditional use are off-street parking, employee cafeterias, storage sheds, trash and recycling receptacles, fences, and signs.  
(Ord. 1991-88. Passed 11-4-92.)

### 1121.03 PRINCIPAL USE REGULATIONS.

Permitted principal uses in any R-B and G-B District, as specified in Schedule 1121.02(a), may be erected, reconstructed, enlarged, moved or structurally altered, only as in compliance with the regulations and requirements of subsections (a) through (f).

(a) Minimum Lot Area and Width.

- (1) Minimum lot area. The area of any lot in a R-B or G-B District shall not be less than 20,000 square feet.

- (2) Minimum lot width. The width of any lot in a R-B or G-B District shall not be less than 100 feet. (Ord. 1991-88. Passed 11-4-92.)

- (b) Minimum Lawn and Landscape Area. In an R-B or G-B District, a lawn, landscaping, and/or nature preserve areas shall cover a minimum of twenty-five percent (25%) of the area of the lot. (Ord. 2006-64. Passed 12-1-06.)

(c) Minimum Yard and Parking Setback Requirements.

- (1) Yard and parking setbacks required. Every permitted use of land and structures shall be located on a zoning lot in such a manner as to create and preserve a front yard adjacent to each street on which such lot abuts, a side yard or yards and a rear yard and parking setbacks, conforming to the requirements of Schedule 1121.03(c) (the "required yards"). Off-street parking areas shall comply with the minimum setbacks established in Schedule 1121.03(c).

#### Schedule 1121.03(c)

#### MINIMUM YARD AND PARKING SETBACK REQUIREMENTS

District	Front Yard Depth	Minimum Dimensions in Feet			
		Rear Yard Depth		Side Yard Depth	
		Adjacent to Non-Residential Districts <sup>(a)</sup>	Adjacent to Residential Districts	Adjacent to Non-Residential Districts <sup>(a)</sup>	Adjacent to Residential Districts
R-B:					
Principal Building	30	25	40	10	30
Parking Setback	20	5	15	5	15
G-B:					
Principal Building	30	25	40	10	30
Parking Setback	20	5	15	5	15

- (a) Yard requirement may be less where on-site circulation, parking and loading are coordinated with adjoining developments and set forth in a joint agreement and approved by the Planning Commission.

- (2) Supplemental proportioned setbacks. When a lot abuts a Residential District along a side or rear lot line, the minimum side or rear yard specified in Schedule 1121.03(c) shall be increased as follows:

A. When the height of the building on such commercially zoned lot exceeds thirty (30) feet, the minimum side or rear yard shall be increased one (1) foot for each foot of height exceeding thirty (30) feet; and

B. When the length of the building on such commercially zoned lot exceeds seventy (70) feet in length, the minimum side or rear yard shall be increased by one-half ( $\frac{1}{2}$ ) foot for each foot of length of the wall exceeding seventy (70) feet;

provided that, in no case shall the minimum required side or rear yard exceed 120 feet in depth.

- (d) Permitted Obstructions Within Required Yards. The following are permitted obstructions within required yards (subject to the height regulations of subsection (f) and to any other provisions of this Zoning Ordinance applicable thereto) provided they are so located that natural light and ventilation are not materially obstructed from the main building or any adjoining property:

- (1) Architectural features extending not more than one (1) foot into a required yard.
- (2) Awnings and canopies extending not more than three (3) feet into a required yard.
- (3) Window air conditioners extending not more than two (2) feet into a required yard.
- (4) Chimneys projecting no more than three (3) feet into a required yard.
- (5) Eaves, gutters or downspouts projecting no more than sixteen (16) inches into a required yard.

- (e) Landscaping and Screening Requirements.

- (1) Landscaping and maintenance of yards. Except as provided in this Section, required yards and treelawns shall not be obstructed by any structure and such areas, together with all other portions of the zoning lot not covered by permitted structures, shall be landscaped (including covering such areas with trees, shrubbery and grass or other appropriate ground cover or landscaping material) so as to assure absorption of rainfall, and prevent erosion and rapid run-off of surface water, and such landscaping shall be maintained.

- (2) Screening when lot abuts Residential District. When a lot in a R-B or G-B District abuts any Residential District, screening shall be provided and maintained in the required yard abutting such Residential District by either of the following means:

- A. By a substantially solid wall or fence erected to a height of not less than four (4) feet, or
- B. By planting a strip of land at least ten (10) feet in width with dense landscaping (including substantial all-season plantings) at least four (4) feet high.

- (3) **Required parking lot landscaping.** For parking areas or portions of parking areas designed to accommodate thirty (30) or more vehicles, a minimum of five percent (5%) of the land area within the parking area shall be appropriately designed with landscaped areas and planted islands, developed and distributed throughout the parking area as to interrupt the expanse of the paved area. Such planted islands and landscaped areas shall be a minimum of ten (10) feet in any dimension. Shrub plantings adjacent to a building, or any part of a required yard, shall not be counted as interior landscaping.
- (f) **Height Regulations.**
- (1) **Maximum height established.** The maximum height of any structure for a permitted principal or accessory use in a R-B or G-B District, is set forth in Schedule 1121.03(f), except as otherwise provided in subsection (f)(2) hereof.

Schedule 1121.03(f)

MAXIMUM HEIGHT REGULATIONS

<u>District</u>	<u>Building Classification</u>	<u>Maximum Height</u>
R-B	principal	52 ft.
	accessory	20 ft.
G-B	principal	52 ft.
	accessory	20 ft.

- (2) **Exceptions to height regulations.** Height regulations shall not apply to the height of a church spire, belfry, clock tower, wireless tower, chimney flue, water tank, elevator bulk head, stage tower, scenery lofts, flagpoles, acrias and antennas, and approved street lighting.  
(Ord. 1991-88. Passed 11-4-92.)

**1121.04 ACCESSORY USE REGULATIONS.**

Accessory uses, buildings and structures permitted in Commercial Districts shall conform to the following standards.

- (a) **General Regulations.**
- (1) An accessory use customarily incident to the permitted principal or conditional use shall be permitted in Commercial Districts only upon the same lot with the permitted principal or conditional use.
- (2) Any accessory building shall comply with the minimum front, side and rear yard setbacks for principal buildings as set forth in Schedule 1121.03(c).  
(Ord. 1991-88. Passed 11-4-92.)

- (b) **Commercial District Fence Regulations.** Fences and walls may be erected, placed and maintained on a lot, the location, appearance and height of which shall be regulated as follows:
- (1) **Permit required.** Before any fence shall be erected a permit shall be secured from the Zoning Inspector. Application for such permit shall be made in writing and shall be accompanied by plans or drawings showing the actual shape and dimension of the lot on which the fence is to be constructed, the exact location, height, length, type of material and type of construction of such proposed fence and the location of all building on the lot. Such application shall be submitted together with payment of a fee established by City Council. It is the responsibility of the installer to verify property line locations, and install fence entirely on the owners property.
  - (2) **Location in front yard of non-corner lot.** Fences and walls shall be permitted parallel to the front building line but not more than six (6) feet from such building unless approved by the Planning Commission for screening purposes.
  - (3) **Location in front yard of corner lot.** Fences and walls may be located within a triangle formed by the lines drawn between a point on the front lot line and a point on the side lot line of a corner lot; said points shall be no more than twenty (20) feet from the intersection of the front lot line and the side lot line (measured on nearest property lines); said landscaping features shall not substantially obstruct vision within a vertical height band of two and-one-half (2-1/2) feet above curb level.
  - (4) **Location in side yard of corner lot.** No fences or wall shall be permitted closer to the side lot street line than the side building line unless approved by the Planning Commission for screening purposes.
  - (5) **Construction and maintenance.**
    - A. Fences shall not exceed six (6) feet in height, except where a fence encloses a school ground, public playground, public swimming pool, tennis courts, or other public areas which are used for athletic purposes, in which case such fence may be erected to a height not in excess of ten (10) feet with the approval of the Zoning Inspector.
    - B. No electrically charged fence shall be permitted in the City.
    - C. No barbed wire fences are permitted in Commercial Districts.
  - (6) Fences shall be of uniform design, and otherwise well maintained. All fences shall display the finished side of fence to adjacent properties and view from public street. Fence posts shall not face to adjacent properties or public street.
  - (7) Living fences shall be limited to a maximum of three feet (3') high in the side and front yard, and arranged so as not to obstruct vision from motor vehicles. Living fences shall be limited to a maximum of eight feet (8') high in the rear yard. All living fences shall be trimmed so as not to be a nuisance to abutting properties.
- (Ord. 2006-64. Passed 12-1-06.)

- (c) Waste Receptacles.
  - (1) Handling of solid waste. All solid waste products resulting from any permitted principal, conditionally permitted or permitted accessory use shall either be disposed of, stored in buildings or enclosed within an approved wall or fence.
  - (2) Screening requirements. Waste areas, dumpsters and receptacles for recyclable materials shall be housed in a wholly enclosed structure, or completely screened from any parking area or street right-of-way by a vision obscuring fence or plant material
- (d) Off-Street Parking and Loading Regulations. Off-street parking and loading shall be provided in accordance with Section 1129.02.
- (e) Sign Regulations. The use of signs in any Commercial District shall be in accordance with Section 1129.03. (Ord. 1991-88. Passed 11-4-92.)

#### **1121.05 CONDITIONAL USE REGULATIONS.**

Conditional uses enumerated in Schedule 1121.02(a) shall conform to the regulations and requirements of Section 1129.01 and may be permitted on a particular zoning lot in a R-B or G-B District provided a conditional use permit is obtained pursuant to the administrative procedures set forth in Section 1141.02. (Ord. 1991-88. Passed 11-4-92.)



## **CHAPTER 1125**

### **Industrial District Regulations**

<b>1125.01</b>	<b>Statements of purpose.</b>	<b>1125.04</b>	<b>Accessory use regulations.</b>
<b>1125.02</b>	<b>Permitted uses.</b>	<b>1125.05</b>	<b>Conditional use regulations.</b>
<b>1125.03</b>	<b>Principal use regulations.</b>		

#### **1125.01 STATEMENTS OF PURPOSE.**

(a) The L-I Limited Industrial District is established to accommodate and encourage the grouping of professional, research, and administrative uses; and light industrial uses which are usually controlled operations, relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor, or dust. All activities and storage of goods, equipment and materials shall be within completely enclosed structures.

(b) In addition to uses permitted in the L-I District, the G-I General Industrial District is established to provide for industrial uses which are generally major operations and extensive in character for the purpose of repairing, storing, manufacturing, processing, or distributing goods. Such uses require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution, and water pollution while operating in compliance with all state and federal regulations, but such nuisances shall not extend beyond the district boundary and shall be in locations remote from existing or proposed residential areas.

(c) To assure that new construction, renovations, and uses are in accordance with the City of Brooklyn Master Plan, Ordinance 2006-32.  
(Ord. 2006-64. Passed 12-1-06.)

#### **1125.02 PERMITTED USES.**

In the two Industrial Districts, land and structures may be used or occupied, and structures may be erected, constructed or reconstructed, enlarged, moved or structurally altered, only for a principal use specified for a particular district in subsection (a), a conditional use in accordance with subsection (b), or an accessory use to a permitted principal or conditional use in accordance with subsection (c).

- (a) Principal Uses in L-I and G-I Districts. The principal uses enumerated in Schedule 1125.02(a) are permitted by right in the district indicated, provided that all requirements of other City ordinances and this Zoning Ordinance have been met.
- (b) Conditional Uses in L-I and G-I District. The categories of conditional uses which may (together with their accessory uses) be permitted in the L-I and G-I Districts, provided they conform to the conditions, standards and requirements of Section 1129.01 and are approved for a particular zoning lot in accordance with the administrative procedures of Section 1141.02, are enumerated in Schedule 1125.02(a). (Ord. 1991-88. Passed 11-4-92.)

## Schedule 1125.02(a)

## PERMITTED PRINCIPAL AND CONDITIONAL USES

<u>Permitted Uses</u>	<u>L-I Limited<sup>(a)</sup> Industrial District</u>	<u>G-I General Industrial District</u>
1. Administrative, professional, executive, financial, accounting, clerical, drafting and other similar offices	P	P
2. Laboratories for research, design and experimental production and testing of goods, supplies or equipment	P	P
3. Light manufacturing, compounding, processing, assembling and packaging	P	P
4. Printing, publishing and allied industries	P	P
5. Commercial storage of goods, supplies or equipment, warehousing, and wholesale marketing and distribution of such goods, supplies or equipment	P	P
6. Outdoor bulk storage of items to be used on the premises	C	P
7. Warehousing, including open storage of building materials, contractors' equipment and other goods		C
8. Truck terminals		C
9. Equipment or vehicle repair shop		P
10. Public service and maintenance facilities		P

11.	Public safety facilities	P	P
12.	Any lawful manufacturing use not prohibited in Section 1125.02(d)		P
13.	Public and private recreational facilities	C	C
14.	Commercial establishments primarily serving industrial employees	C	C

(a) In a L-I District, all principal uses shall be carried on wholly within enclosed buildings.

P = Principal use.

C = Conditional use.

(Ord. 2006-64. Passed 12-1-06.)

- 
- (c) Accessory Uses in L-I and G-I Districts. Accessory uses clearly incidental and subordinate to a permitted principal or conditionally permitted use, located on the same lot, are permitted in L-I or G-I Districts and may include the following:
- (1) Private garages, storage facilities and off-street parking and loading areas in compliance with Section 1129.02;
  - (2) Waste receptacles in compliance with Section 1125.04(b);
  - (3) Signs in compliance with Section 1129.03;
  - (4) Canteens or cafeterias for employees.  
(Ord. 1991-88. Passed 11-4-92.)
- (d) Prohibited Uses. The following uses are hereby prohibited in L-I and G-I Districts:
- (1) Camp. Trailer park.
  - (2) Asphalt or tar manufacturing or refining or the mixture of either material for street paving purposes. Tar distillation or manufacture. Tar roofing or tar waterproofing manufacture. Creosote manufacture.
  - (3) Fat rendering, soap, tallow, grease, or lard manufacturing or refining. Glue, gelatin or size manufacture. Fertilizer manufacture. Stock feed manufacture.
  - (4) Tanning, curing or storage of raw hides or skins. Wool pulling or scouring.
  - (5) Rubber manufacture. Dye stuffs manufacture. Slaughter house.
  - (6) Ammonia, bleaching powder or chlorine manufacture or refining. Hydrochloric, nitric, sulphuric or sulphurous acid manufacture.
  - (7) Match, oilcloth or linoleum manufacture. Emery cloth or sandpaper manufacture.
  - (8) Coke ovens, distillation of coal, wood or bones. Blast furnace, rolling mill or smelter.
  - (9) Paper and pulp manufacturing by sulphide process emitting noxious gases or odors.

- (10) Carbon; coal gas, coke or lampblack manufacture. Potash manufacture.
- (11) Disinfectant or insecticide manufacture which emits offensive odors.
- (12) Petroleum or other inflammable liquids, production or refining.
- (13) Garbage, offal, dead animal or refuse, incineration, reduction or storage. Stock yards. Rubbish recycling yard. Refuse collection vehicle storage.
- (14) Gun powder, fireworks, or other explosive manufacture or storage.
- (15) Pyroxyline plastic manufacture, or manufacture of articles therefrom. Rayon or rayon silk manufacture.
- (16) Junkyards. Junk, scrap iron, rag or scrap paper storage. Wrecking yards for the storage of used lumber and building supplies. Automobile recycling yard.
- (17) Stone quarry. Cemetery. Crematory.
- (18) Any other trade, industry or use that will be injurious, hazardous, noxious or offensive to an extent equal to or greater than any of the enterprises enumerated in this subsection.  
(Ord. 2006-64. Passed 12-1-06.)

#### **1125.03 PRINCIPAL USE REGULATIONS.**

Permitted principal uses in any L-I or G-I District, as specified in Schedule 1125.02(a), may be erected, reconstructed, enlarged, moved or structurally altered, only as in compliance with the regulations and requirements of subsections (a) through (e).

(a) Minimum Lot Area and Width.

- (1) Minimum lot area. The area of any lot in a L-I or G-I District shall not be less than one (1) acre.
- (2) Minimum lot width. The width measured along the front lot line of any lot in a L-I or G-I District shall not be less than 125 feet.  
(Ord. 1991-88. Passed 11-4-92.)

(b) Minimum Lawn and Landscape Area. In an L-I or G-I District, a lawn, landscaping, and/or nature preserve areas shall cover a minimum of twenty-five percent (25%) of the area of the lot.  
(Ord. 2006-64. Passed 12-1-06.)

(c) Minimum Yard and Parking Setback Requirements.

- (1) Yards and parking setbacks required. Every permitted use of land and structures shall be located on a zoning lot in such a manner as to create and preserve a front yard adjacent to each street on which such lot abuts, a side yard or yards, a rear yard and parking setbacks conforming to the requirements of Schedule 1125.03(c) (the "required yards"). Off-street parking areas shall comply with the minimum setbacks established in Schedule 1125.03(c).

## Schedule 1125.03(c)

## MINIMUM YARD AND PARKING SETBACK REQUIREMENTS

District	Front Yard Depth	Minimum Dimensions in Feet			
		Rear Yard		Side Yard	
		Depth		Depth	
		Adjacent to Non-Residential Districts	Adjacent to Residential Districts	Adjacent to Non-Residential Districts	Adjacent to Residential Districts
L-I:					
Principal Building	50	20	40	20	40
Parking Setback	20	10	20	10	20
G-I:					
Principal Building	50	20	40	20	40
Parking Setback	20	10	20	10	20

- (2) Supplemental proportioned setbacks. When a lot abuts a Residential District along a side or rear lot line, the minimum side or rear yard specified in Schedule 1125.03(c) shall be increased as follows:

- A. When the height of the building on such industrially zoned lot exceeds thirty (30) feet, the minimum side or rear yard shall be increased one (1) foot for each foot of height exceeding thirty (30) feet, and
- B. When the length of the building on such industrially zoned lot exceeds seventy (70) feet, the minimum side or rear yard shall be increased by one-half ( $\frac{1}{2}$ ) foot for each foot of length of the wall exceeding seventy (70) feet;

provided that, in no case shall the minimum required side or rear yard exceed 120 feet in depth. (Ord. 1991-88. Passed 11-4-92.)

- (d) Landscaping and Screening Requirements.

- (1) Landscaping and maintenance of yards. Required yards and all other portions of the lot not covered by permitted structures shall be landscaped with grass, trees, shrubbery and/or other appropriate ground cover or landscaping material, which at all times shall be maintained in good and healthy condition, so as to assure adequate screening of parking and loading areas, as well as absorption of rainfall, and to prevent erosion from rapid run-off of surface water.
- (2) Screening when lot abuts a Residential District. When a lot in a L-I or G-I District abuts a Residential District, or an existing or potentially incompatible use, screening or buffering of buildings, parking and storage areas on such lot shall be provided in accordance with the following regulations:

- A. Erection of a substantially solid wall or fence not less than five (5) feet in height, or
  - B. Planting of a strip of land at least ten (10) feet in width with dense landscaping (including substantial all-season plantings) not less than five (5) feet in height, or
  - C. Construction of a landscaped mound or berm not less than five (5) feet in height, or
  - D. Erection of any combination of the above barriers to a height of not less than five (5) feet.
- (3) Required parking lot landscaping. For parking areas or portions of parking areas designed to accommodate thirty (30) or more vehicles, a minimum of ten percent (10%) of the land area within the parking area shall be appropriately designed with landscaped areas and planted islands, developed and distributed throughout the parking area as to interrupt the expanse of the paved area. Such planted islands and landscaped areas shall be a minimum of ten (10) feet in any dimension. Shrub plantings adjacent to a building, or any part of a required yard, shall not be counted as interior parking lot landscaping.
- (4) Screening when lot contains outdoor storage as specified in Section 1125.02(a)(6) and (7). When a lot in a L-I or G-I District contains outdoor storage visible from public street or commercial property, adequate screening or buffering of storage areas on such lot shall be provided in accordance with the following regulations:
- A. Erection of a substantially solid wall or fence not less than five (5) feet in height, or
  - B. Planting of a strip of land at least ten (10) feet in width with dense landscaping (including substantial all-season plantings) not less than five (5) feet in height, or
  - C. Construction of a landscaped mound or berm not less than five (5) feet in height, or
  - D. Erection of any combination of the above barriers to a height of not less than five (5) feet.
- (Ord. 2006-64. Passed 12-1-06.)
- (e) Height Regulations. The maximum height of any building for a permitted principal or accessory use in a L-I or G-I District shall not exceed forty-two (42) feet. Height regulations shall not apply to the height of a wireless tower, chimney flue, water tank, elevator bulkhead, stage tower, flagpoles, aerials and antennas, and approved street lighting.
- (Ord. 1991-88. Passed 11-4-92.)

**1125.04 ACCESSORY USE REGULATIONS.**

Accessory uses, buildings and structures permitted in Industrial Districts shall conform to the following standards.

(a) General Regulations.

- (1) An accessory use customarily incident to the permitted principal or conditional use shall be permitted in Industrial Districts only upon the same lot with the permitted principal or conditional use.
- (2) Accessory uses and structures, with the exception of accessory off-street parking and loading pursuant to the setback requirements of Schedule 1125.03(c) and signs in compliance with setback requirements contained in Sections 1129.03(e) and (g), shall meet all yard requirements of the principal use as specified in Schedule 1125.03(c).

(b) Waste Receptacles.

- (1) Handling of solid waste. All solid waste products resulting from any permitted principal, conditionally permitted or permitted accessory use shall either be disposed of, stored in buildings or enclosed within an approved wall or fence.
- (2) Screening requirements. In the L-I District, rubbish areas, dumpsters and receptacles for recyclable materials shall be housed in a wholly enclosed structure, or completely screened from any parking area or street right-of-way by a vision obscuring fence or plant material.

(c) Off-Street Parking and Loading Regulations. Off-street parking and loading shall be provided in accordance with Section 1129.02.

(d) Sign Regulations. The use of signs in any Industrial District shall be in accordance with Section 1129.03. (Ord. 1991-88. Passed 11-4-92.)

(e) Industrial District Fence Regulations. Fences and walls may be erected, placed and maintained on a lot, the location, appearance and height of which shall be regulated as follows:

- (1) Permit required. Before any fence shall be erected a permit shall be secured from the Zoning Inspector. Application for such permit shall be made in writing and shall be accompanied by plans or drawings showing the actual shape and dimension of the lot on which the fence is to be constructed, the exact location, height, length, type of material and type of construction of such proposed fence and the location of all building on the lot. Such application shall be submitted together with payment of a fee established by City Council. It is the responsibility of the installer to verify property line locations, and install fence entirely on the owners property.
- (2) Location in front yard of non-corner lot. Fences and walls shall be permitted parallel to the front building line. Fences and walls may be installed in front of the building line with the approval of the Planning Commission.
- (3) Location in front yard of corner lot. Fences and walls may be located within a triangle formed by the lines drawn between a point on the front lot line and a point on the side lot line of a corner lot; said points shall be no more than twenty (20) feet from the intersection of the front lot line and the side lot line (measured on nearest property lines); said landscaping features shall not substantially obstruct vision within a vertical height band of two and-one-half (2-1/2) feet above curb level. Fences and walls may be installed in front of the building line with the approval of the Planning Commission.

- (4) Location in side yard of corner lot. No fences or wall shall be permitted closer to the side lot street line than the side building line, unless approved by the Planning Commission.
- (5) Fences shall not exceed six (6) feet in height, except a open security fence, or where necessary for screening of refuse containers and/or storage areas in which case such solid fence may exceed six (6) feet in height with the approval of the Zoning Inspector.
- (6) No electrically charged fence shall be permitted in the City. Barbed wire may be permitted for security fences where a minimum of six (6) feet above grade with the approval of the Zoning Inspector.
- (7) Fences shall be of uniform design, and otherwise well maintained. All fences shall display the finished side of fence to adjacent properties and view from public street. Fence posts shall not face to adjacent properties or public street.
- (8) Living fences shall be limited to a maximum of three feet (3) high in the side and front yard, and arranged so as not to obstruct vision from motor vehicles. Living fences shall be limited to a maximum of eight (8) feet high in the rear yard. All living fences shall be trimmed so as not to be a nuisance to abutting properties.  
(Ord. 2006-64. Passed 12-1-06.)

#### **1125.05 CONDITIONAL USE REGULATIONS.**

The conditional uses enumerated in Schedule 1125.02(a) may be permitted in the L-I or G-I Districts provided they conform to the standards and requirements of Section 1129.01 and are approved for a particular lot in accordance with the administrative provisions in Section 1141.02.  
(Ord. 1991-88. Passed 11-4-92.)



## CHAPTER 1129 Supplementary Regulations

**1129.01** Conditional use regulations.  
**1129.02** Off-street parking and loading regulations.

**1129.03** Sign regulations.

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### **1129.01 CONDITIONAL USE REGULATIONS.**

(a) Purpose. The potentially diverse characteristics and impacts of a number of new and unique uses, as well as conventional uses, require the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety, and general welfare of the community. Toward these ends, this Section provides for a more detailed evaluation of each use conditionally permitted in a specific zoning district with respect to such considerations as location, design, size, method(s) of operation, intensity of use, public facilities requirements, and traffic generation. Accordingly, conditional use permits shall conform to the procedures and requirements of Section 1141.02.

(b) Conformance with District Regulations. A conditional use, except as specifically otherwise provided in this Section or in the district regulations for the district in which such use is to be located, shall conform to such district regulations, and to other substantive requirements of this Zoning Ordinance as well as satisfying the conditions, standards and requirements of this Section.

(c) General Standards for All Conditional Uses. A conditional use, and uses accessory to such conditional use, shall be permitted in a Residential, Commercial or Industrial District only when specified in Sections 1117.02(b), 1121.02(b) or 1125.02(b) as a permitted conditional use in such district, and only if such use conforms to the following standards in addition to any specific conditions, standards and regulations for such category of use set forth in this Section. Furthermore, the Planning Commission shall find that:

- (1) The conditional use will be in general accord with the purpose, intent and basic planning objectives of this Zoning Ordinance, with the objectives for the district in which located;
- (2) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;

- (3) The conditional use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not essentially change the character of the same area;
- (4) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
- (5) The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- (6) Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
- (7) Adequate measures have been or will be taken to provide ingress and egress designed as to minimize traffic congestion in the public streets;
- (8) The establishment of the conditional use should not be detrimental to the economic welfare of the community by creating excessive additional requirements at public cost for public facilities such as police, fire and schools;
- (9) There is minimal potential for future hardship on the conditional use that could result from the proposed use being surrounded by uses permitted by right that are incompatible;
- (10) The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located as well as the specific supplemental conditions set forth in subsection (d) hereof.

(d) Supplemental Standards for Conditional Uses. In addition to the general criteria established in subsection (c) hereof, the following specific conditions pertaining to each use or group of uses shall apply. Nothing in this Section shall prohibit the Planning Commission from prescribing supplementary conditions and safeguards in addition to these requirements.

- (1) Specific area, yard and parking setback requirements. Principal and accessory buildings and parking areas for conditional uses shall conform to the area and yard regulations specified for such uses in Schedule 1129.01(d).  
(Ord. 1991-88. Passed 11-4-92.)

## Schedule 1129.01(d)

## REQUIREMENTS FOR CONDITIONAL USES

Conditional Use	Minimum Lot		Minimum Yard Dimensions		Parking Setback	
	Area (Acres)	Width (Feet)	Front (Feet)	Side/Rear (Feet)	Front (Feet)	Side/Rear (Feet)
Schools, Public Libraries, Religious Facilities, Museums, Public Safety Facilities	1	150	50	50	50	10
Parks, Playgrounds, Municipal Recreation Facilities, Private Recreation Facilities	None	None	50	50	--	--
Hospital	2	200	50	50	30	15
Mortuary, Funeral Homes	20,000 sq. ft.	100	50	50	15	--
Hotel, Motel	1	150	--	--	--	--
Community Parking Garage	20,000 sq. ft.	100	30	15	N/A	N/A
Automotive Uses	20,000 sq. ft.	100	--	--	15	--
Bus Station, Truck Terminal, Freight Terminal	1	150	--	--	--	--
Drive-Thru Facilities	See Section 1129.01(d)(2)E.					
Adult Entertainment Facilities	See Section 1129.01(d)(2)K.					
Commercial Establishment primarily serving industrial employees	See Section 1129.01(d)(2)L.					

(Ord. 2006-64. Passed 12-1-06.)

- (2) Conditional use regulations for specific uses. In addition to the regulations established by subsections (b), (c) and (d)(1) hereof, the following regulations shall apply to certain conditional uses:

- A. Public and private schools, parks and playgrounds. In any district, the Planning Commission may require a school, park, or playground to enclose the outdoor play area with a fence to minimize traffic hazards.
- B. Funeral home. The final development plan submitted by the applicant pursuant to Section 1141.03(a) shall provide for, in addition to the requirements of Section 1141.03(a)(3), the separation of incoming and outgoing vehicles during high volume periods and shall provide a safe drop-off point for visitors that will not impede other traffic.
- C. Theater, indoor movie theater, bowling alley, skating rink, dance hall, club room and similar recreational uses.
  - 1. Such facility should be located so as to cause the least disruption to pedestrians who might be shopping at several other retail stores on the same site or in the vicinity;
  - 2. The Planning Commission may impose restrictions on the hours of operation to assure that the business operates in a manner similar to the prevailing characteristics of other businesses in the vicinity.
- D. Night club, tavern, and any other establishment serving alcoholic beverages for consumption on the premises.
  - 1. Such establishment shall be located no closer than 1,000 feet to the boundaries of any lot containing a church, library, public park or playground, nursery, school, or any other institution where children are kept day or night;
  - 2. The Planning Commission may impose restrictions on the hours of operation to assure that the business operates in a manner similar to the prevailing characteristics of other businesses in the vicinity;
  - 3. Provisions D.1. and D.2. shall not apply to real property within the City limits for which a permit has been issued by the Department of Liquor Control of the State of Ohio and a going business has been validly operating under such permit prior to the adoption of this Zoning Ordinance. In the event of a change of location, or the discontinuance of any such business for any reason at all for a period of six months or more, the provisions of this Zoning Ordinance shall then apply.
- E. Drive-thru facilities. Drive-thru facilities may be conditionally permitted in association with a permitted use in a Retail Business District or with a conditionally permitted use in a Limited Industrial or General Industrial District and may be regulated according to the following:
  - 1. Such facility should be located so as to cause the least disruption to pedestrians who might be shopping at several other retail stores on the site or in the vicinity;

2. The location of access drives shall be evaluated according to Section 1129.02(k);
  3. The minimum number of off-street waiting spaces shall be in compliance with Section 1129.02(f);
  4. The Planning Commission may impose restrictions on the hours of operation to assure that the business operates in a manner similar to the prevailing characteristics of other businesses in the vicinity.
- F. Gasoline station. In a R-B District, a gasoline station may be conditionally permitted in compliance with the following:
1. Such use should be located so as to cause the least disruption to pedestrian traffic;
  2. Gasoline stations located on a corner lot shall have not less than 100 feet frontage on each of the two intersecting streets;
  3. Fuel pumps may be erected in a front yard but not less than 25 feet from the street right-of-way; pavement in association with a gasoline pump shall be located no less than 15 feet from the street right-of-way. The resulting open space shall be landscaped and maintained in satisfactory condition and, except for entrance and exit drives and permitted signs, shall not be used for any other purpose;
  4. A canopy may be constructed over the pump island provided the canopy shall be no closer than 15 feet to the right-of-way;
  5. The only services permitted to be performed on a vehicle shall be the dispensing of fuel, oil, air and windshield wiper fluid, etc.;
  6. The location, display or storage of rental trailers, automobiles, trucks or other rental equipment on the premises is not permitted;
  7. A gasoline station may be combined with a car wash or auto service garage provided that the minimum lot area shall be no less than 30,000 square feet and that such dual use is in compliance with the regulations established for each use.
- G. Auto service garage, car wash. In a R-B District, an auto service garage or a car wash may be conditionally permitted provided that:
1. There shall be a minimum building floor area of 1,200 square feet;
  2. All activities take place inside the building;
  3. An auto service garage or a car wash may be combined with a gasoline station provided the minimum lot area shall be no less than 30,000 square feet and the regulations for each use are maintained.
- H. Automobile sales, new, or new and used. In a R-B District, establishments offering automobiles for sale may be conditionally permitted in compliance with the following:

1. Sale of new automobiles means a building and land used by a franchised automobile dealer principally for the sale of new automobiles. The sale of used automobiles may be permitted as an accessory use provided the inventory of used automobiles does not exceed fifty percent (50%) of the overall inventory at any one time.
  2. Service garage, leasing department and other activities customarily incidental to a full service franchised automobile dealer shall be permitted provided these uses are in the same building as the new car salesroom.
  3. Only minor repair of automobiles customarily associated with automobile sales shall be permitted.
  4. Such use may be operated in conjunction with another automotive use enumerated in Schedule 1121.02(a) provided such dual use shall meet the standards set forth for each use.
- I. Truck, recreational vehicle, boat sales/rental. In a G-B District, the sale or rental of recreational vehicles, boats and trucks may be conditionally permitted provided that:
1. There shall not be more than fifty vehicles located on the site outside of a completely enclosed building at any one time;
  2. All work on vehicles, including but not limited to cleaning, servicing and repair, shall be done only inside a suitable service building;
  3. Such use may be operated in conjunction with another automotive use enumerated in Schedule 1121.02(a) provided such dual use shall meet the standards set forth for each use.
- J. Outdoor storage. Goods, supplies, and equipment which are used or to be sold on the premises may be permitted in the L-I District, to the extent appropriate, in compliance with the following regulations:
1. All storage areas shall meet all yard requirements of the principal use;
  2. Storage of any materials out of doors shall be effectively screened from any observer's view at grade level on an adjoining road or lot by a vision obscuring fence or plant material;
  3. Such storage shall be located to permit the free access of fire fighting equipment around the building at all times;
  4. Conditional use approval should specify the materials to be stored and their respective locations on the site and height limitations.
- K. Adult entertainment establishments.
1. For purposes of this Zoning Ordinance adult entertainment establishments shall include but not be limited to any of the following:

- a. Adult book store. An establishment which utilizes 15 percent or more of its retail selling area for the purpose of retail sale or rental, or for the purpose of display by coin or slug-operated, or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices, or both, books, magazines, other periodicals, films, tapes and cassettes which are distinguished by their emphasis on adult materials as defined in this Section.
  - b. Adult motion picture theater. An enclosed motion picture theater which is regularly used or utilizes 15 percent or more of its total viewing time, for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to adult material as defined in this Section.
  - c. Adult motion picture drive-in theater. An open air drive-in theater which is regularly used or utilizes 15 percent or more of its total viewing time, for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to adult material as defined in this Section.
  - d. Adult only live entertainment business. An establishment where the patron directly or indirectly is charged a fee where the establishment features entertainment or services which constitute adult material as defined in this Section, or which features exhibitions, dance routines, or gyrational choreography of persons totally nude, topless, bottomless, or strippers, male or female impersonators or similar entertainment or services which constitute adult material.
2. To further determine whether the above facilities are adult entertainment establishments, the following definitions shall apply.
- a. Adult material. Any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, image, description, motion picture film, phonographic record or tape, other tangible thing, or any service, capable of arousing interest through sight, sound or touch, and:
    - i. Which material is distinguished or characterized by an emphasis on matter displaying, describing, or representing sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination; or

- ii. Which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination.
  - b. Bottomless. Less than full opaque covering of male or female genitals, pubic area or buttocks.
  - c. Nude or nudity. The showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than full, opaque covering of any portion thereof, or female breast(s) with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.
  - d. Topless. The showing of a female breast with less than a full opaque covering of any portion thereof below the top of the nipple.
  - e. Sexual activity. Sexual conduct or sexual contact, or both.
  - f. Sexual contact. Any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
  - g. Sexual excitement. The condition of the human male or female genitals, when in a state of sexual stimulation or arousal.
- 3. Adult entertainment establishments shall be located:
  - a. A minimum of 500 feet from the boundaries of any lot containing a church, library, public park or playground, nursery, school or any other institution where children are kept day or night;
  - b. A minimum of 500 feet from any other adult entertainment establishment; and
  - c. A minimum of 1000 feet from any residentially zoned parcel in the City of Brooklyn or any adjacent community.

(Ord. 1991-88. Passed 11-4-92.)
- L. Commercial establishments primarily serving industrial and office employees; and industrial and office uses. Employees in industrial districts often need and support certain retail establishments before, during, and after normal working hours. Therefore, subject to the regulations herein, it is the purpose of this subsection to enable such supporting retail to be provided in industrial zoning districts to serve large concentrations of industrial employees when such services, or commercially zoned land to provide these services, are not currently available.



1. Commercial establishments serving industrial and office employees shall be limited to: hotels, restaurants, (including drive-thru facilities), banks, gasoline stations, automobile service garages, convenience food stores not exceeding 6,000 square feet, drug stores, personal service establishments such as dry cleaning and laundry counter outlets, and shoe repair.
2. The land devoted to commercial establishments (including buildings, parking, landscaping, setbacks, etc.) shall not exceed ten (10) acres or ten percent (10%) of the contiguous land area zoned industrial, whichever is more.
3. Commercial establishments may only be considered when the contiguous industrial area is a minimum of fifty (50) acres and at least fifty percent (50%) of such industrial land used is developed.
4. Development of commercial establishments shall comply with the development standards for the Retail Business (R-B) District in Chapter 1121 of this Zoning Ordinance.

**M. Accessory parking.** In a residential district, accessory parking for a lot in a commercial or industrial district may be permitted as a conditional use provided that:

1. The lot on which the proposed use is to be located abuts the commercial or industrial lot to which it is accessory;
2. The parking lot shall be used only for the parking of non-commercial passenger motor vehicles; and
3. The proposed parking lot conforms to the design requirements set forth in Section 1129.02 of the Zoning Code and has been approved by the Planning Commission as a conditional use prior to the demolition of any existing single-, two- or three-family dwelling, in the SF-DH, D-H, A-H, MF-PD zoning districts, on the proposed lot. In addition, confirmation by the City Council for conditional use as accessory parking under this subsection must also be approved prior to the demolition of any existing single-, two- or three-family dwelling on the proposed lot. If such lot is substantially vacant due to demolition prior to the time of application for parking lot design approval and conditional use approval, the lot shall have been vacant for at least twenty-four (24) months preceding the application unless the Commission grants a waiver from such time requirement based on reasonable causes for such demolition by an owner, or prior owner, beyond his/her reasonable control, such as fire or other source of property damage or loss.

- N. Truck and/or Freight Terminal. In a General Industrial district, a truck terminal may be permitted as a conditional use provided that: Truck Terminal, Freight Terminal. In a G-I District, the operation of a truck and/or freight terminal may be conditionally permitted provided that:
1. There shall not be more than fifty commercial vehicles located on the site outside of a completely enclosed building at any one time;
  2. All work on vehicles, including but not limited to cleaning, servicing, and repair, shall be done only inside a suitable service building;
  3. Vehicles shall not be stored in a required yard area;
  4. Outdoor open storage shall be screened in accordance with Section 1125.03(d)(4).
- (Ord. 2006-64. Passed 12-1-06.)

#### **1129.02 OFF-STREET PARKING AND LOADING REGULATIONS.**

(a) Purpose and Interpretation. Off-street parking and loading requirements and regulations are established in order to protect residential neighborhoods from on-street parking; to promote the general convenience, welfare and prosperity of commercial developments; and to relieve congestion so that streets can be utilized more fully for movement of vehicular traffic. Therefore, accessory off-street parking shall be provided as a condition precedent to the occupancy or use of any building structure or land, and at any time a building, structure or use of land is enlarged, expanded, increased in capacity or use, in conformance with the following provisions. Accessory off-street loading facilities shall be provided as required in this Section.

(b) Determination of Required Off-Street Parking Spaces. In computing the number of parking spaces required by this Zoning Ordinance, the following rules shall apply:

- (1) Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross horizontal area of all the floors measured from the exterior faces of the building. Any floor or part thereof used for storage or packaging of merchandise not to exceed 20 percent of the total floor area may be excluded.
- (2) Where seating capacity is the standard for determining parking space requirements, the capacity shall mean the number of seating units installed or indicated, or when fixed seats are not indicated, the capacity shall be determined as being one (1) seat for each 20 square feet of floor area of the assembly room.
- (3) Where employees are the standard for determining parking space requirements, employees shall mean the maximum number of employees on any two successive shifts.
- (4) Fractional numbers shall be increased to the next whole number.
- (5) The parking spaces required for mixed uses shall be the sum of the parking required for each use considered separately.

(c) **Number of Off-Street Parking Spaces Required.** The required number of off-street parking spaces for each facility or use shall be determined by application of Schedule 1129.02(c). For a use not specified, the Planning Commission shall apply the standard for a specified use which the Commission determines to be most similar to the proposed use.

Schedule 1129.02(c)

OFF-STREET PARKING SPACES

<u>Principal Building or Use</u>	<u>Minimum Spaces Required</u>
a. <b><u>Residential Uses:</u></b>	
1. Single-Family Dwellings	2 spaces of which both spaces shall be enclosed (a)
2. Two-Family Dwellings	2 spaces for each dwelling unit, of which both spaces per dwelling unit shall be enclosed (a)
3. Townhouses	2 spaces for each dwelling unit, of which one space per dwelling unit shall be enclosed
4. Apartments	2 spaces for each dwelling unit
b. <b><u>Office, Professional Service Uses:</u></b>	
1. Business, Professional and Administrative Offices and Services (excluding Medical and Dental)	1 space for each 300 sq. ft. of floor area
2. Medical, Dental Offices and Clinics, including Urgent Care Clinics	1 space for each 150 sq. ft. of floor area
3. Financial Establishments	1 space for each 300 sq. ft. of floor area
4. Funeral Homes, Mortuaries	1 space for each 50 sq. ft. of floor area in parlors or service rooms
5. Hospitals	1 space for every 3 beds

Note:

- (a) Required spaces shall be enclosed in a garage to the extent that the area of such garage does not exceed the allowable rear coverage of an accessory building.

## Schedule 1129.02(c) (Cont.)

## OFF-STREET PARKING SPACES

<u>Principal Building or Use</u>	<u>Minimum Spaces Required</u>
c. <u>Retail/Service Uses:</u>	
1. Retail or Business Uses unless specific standard given below	1 space for each 250 sq. ft. of floor area
2. Furniture and Appliance; Nursery and Garden Supply	1 space for each 400 sq. ft. of floor area
3. Restaurants, Table Service; Bars; Taverns; Night Clubs	1 space for each 50 sq. ft. of floor area or 1 space for every 3 seats, whichever is greater
4. Restaurants, Counter Service when located in a shopping center	10 spaces, or 1 space for each 50 sq. ft. of floor area, whichever is greater
5. Restaurants, Counter Service when located as the only use in a free-standing building	40 spaces or 1 space for each 50 sq. ft. of floor area, whichever is greater
6. Hotels and Motels	10 spaces plus 1 space for each sleeping room or suites
d. <u>Automotive Uses:</u>	
1. Gasoline Stations	1 space for every employee
2. Car Wash Facilities	1 space for each employee
3. Auto Service Garages	2 spaces for each service bay plus 1 space for each employee

## Schedule 1129.02(c) (Cont.)

## OFF-STREET PARKING SPACES

<u>Principal Building or Use</u>	<u>Minimum Spaces Required</u>
<b>e. <u>Commercial Entertainment/Recreation Uses:</u></b>	
1. Bowling Alleys	2 spaces for each lane
2. Dance Halls, Skating Rinks, Club Rooms	1 space for each 100 sq. ft. of floor area
3. Indoor Movie Theaters, Auditorium and other Public Assembly Places	1 space for every 4 seats
4. Tennis or Racquet Ball Court	4 spaces for each court
5. Indoor or Outdoor Swimming Pools, public or private	1 space for each 50 sq. ft. of active recreation area including water deck and bathhouse
6. Health, Fitness, Recreation Club	1 space for every 200 sq. ft. of exercise area, locker room, and equipment room
<b>f. <u>General Commercial and Industrial Uses:</u></b>	
1. Printing, Publishing, Storage, Warehousing of Goods, Steam Laundry, Ice Delivery Station, Wholesale Marketing and Distribution of Goods, Supplies or Equipment	1 space for each 800 sq. ft. of floor area
2. Research and Testing Laboratories	1 space for each 400 sq. ft. of floor area
3. All other types of Industrial uses permitted in any Industrial District	1 space for each 400 sq. ft. of floor area

## Schedule 1129.02(c) (Cont.)

## OFF-STREET PARKING SPACES

	<u>Principal Building or Use</u>	<u>Minimum Spaces Required</u>
g.	<u>Educational Facilities:</u>	
1.	Junior High Schools, Elementary Schools and Kindergartens	2 spaces for each classroom plus 1 space for every 4 seats in assembly halls
2.	High Schools	10 spaces for every classroom
3.	Child Day Care Centers, Nursery Schools and similar uses	1 space for each staff person or employee
h.	<u>Community Facilities:</u>	
1.	Religious Facilities	1 space for every 4 seats
2.	Library, Museum, Municipal Recreation Building	1 space for every 4 seats or for each 300 sq. ft. of floor area, whichever is greater

(d) Modification of Requirements.

- (1) Allowance for shared parking. Institutions, theaters, dance halls and similar uses may make arrangements with banks, offices, retail stores and similar uses that are not normally open, used or operated during the same hours to share parking facilities, provided not more than 50 percent of the required parking spaces are shared. In any case where the required parking spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by legal counsel, and filed with the application for a building permit.

- (2) **Multiple uses.** In a multiple use or mixed use project, the Planning Commission may approve a lesser number of spaces than specified in Schedule 1129.02(c) when it determines that the application of the standards will result in an excessive number of parking spaces and that a lesser number of spaces, by virtue of overlapping occupancy, different hours of operation, varying peak demand, is appropriate and consistent with these regulations.
- (3) **Landbanking for future use as parking area.** When the parking requirement based on Schedule 1129.02(c) for a particular use can be shown by the owner or agent of the owner to result in an excessive number of parking spaces, the Planning Commission may permit a reduction of spaces up to the number that are excessive. The Commission shall require to be reserved as open landscaped space an area sufficient to accommodate the additional number of parking spaces necessary to meet the requirement of Schedule 1129.02(c). Such reserved area shall be in addition to all required yards, and the location of such reserved area shall be indicated on a map included in the final development plan required by Section 1141.03.
- (4) **Excessive Parking Area Requested.** The Planning Commission may restrict the amount of parking spaces and size of the parking area when the amount of parking proposed exceeds the minimum requirement of Schedule 1129.02(c) for a particular use and the Commission determines the amount of parking proposed is excessive. The Planning Commission may permit additional parking to be developed at a future time when the owner or agent of the owner can demonstrate need for additional parking.

(e) **Location of Required Parking Spaces.** In addition to specific requirements contained in each district's regulations, the location of off-street parking facilities shall further be regulated according to the following provisions:

- (1) The parking spaces required for residential buildings in a Residential District shall be located on the same lot with the building or use served.
- (2) The parking spaces required for any other building or use may be located on another permissible area within 300 feet of the building and two or more owners of buildings may join together in providing the required parking spaces. Where the required parking spaces are not located on the same lot with the building or use served, the usage of the lot or tract upon which the parking spaces are provided shall be restricted by an instrument of record describing the premises for which the parking is provided and assuring the retention of such parking so long as required by this Zoning Ordinance.
- (3) No parking of a motor vehicle shall be permitted nor shall any person park a motor vehicle in a landscaped front yard area.

(f) **Off-Street Waiting Spaces for Drive-Thru Facilities.** Establishments which by their nature create lines of customers waiting to be served within automobiles shall provide off-street waiting areas, on the same lot as the use, in addition to the required number of parking spaces specified in Schedule 1129.02(c), in accordance with the following requirements:

- (1) Commercial establishments such as banks, drive-thru restaurants, automatic car wash facilities and other similar facilities with service windows or service entrances shall provide a minimum of 10 waiting spaces, but not less than 5 spaces per window or entrance when there are two or more windows or entrances.
  - (2) Self-serve car wash facilities shall provide no less than 2 waiting spaces per stall.
  - (3) Gasoline stations shall provide no less than 2 waiting spaces per accessible side of a gasoline pump island.
  - (4) In any case, there shall not be within the public right-of-way vehicles waiting for service at such drive-in or drive-thru facilities.  
(Ord. 1991-88. Passed 11-4-92.)
- (g) Storage of Recreational Vehicles, Construction Trailers, and Boats.
- (1) A recreational vehicle or boat may be customarily or seasonally parked or stored on a lot in a Residential District, subject to the following conditions:
    - A. A recreational vehicle or boat stored on a lot in a Residential District shall not exceed 20 feet in length, except that a recreational vehicle or boat up to twenty-six (26) feet in length may be stored on such lot if parked not less than 50 feet from any adjacent residence.
    - B. Any recreational vehicle or boat shall be located no closer than 5 feet from a side lot line, and if such vehicle or boat is stored in a side yard, the height of the recreational vehicle or boat shall not exceed 8 feet.
    - C. Any recreational vehicle or boat shall be stored in a private garage if there is a garage on the zoning lot and the vehicle or boat is of such a size that it can be stored in such garage.
    - D. No more than one recreational vehicle or boat shall be stored outdoors on a zoning lot at one time. Additional recreational vehicles or boats may be stored in a garage on the lot.
    - E. No recreational vehicle or boat shall be stored in the front yard of a lot in a Residential District.
    - F. Recreational vehicles or boats in excess of two thousand pounds (2000#) shall be parked in the rear yard on a surface improved with concrete or asphalt.
    - G. Recreational equipment and other vehicle(s) shall not have fixed connections to electricity, water, gas or sanitary sewer facilities, and at no time shall such equipment be used as a dwelling unit, or for storage or housekeeping purposes in the City.
    - H. All recreational equipment and other vehicle(s) must be kept in good repair and, where applicable, carry a current year's license plate and registration.
  - (2) A recreational vehicle, construction office trailer or boat may be customarily or seasonally parked or stored on a lot in a Commercial or Industrial District, subject to the following conditions:
    - A. In a Retail Business, General Business, or Limited Industrial district there shall not be more than a total of ten recreational vehicles, construction office trailers or boats located on the site outside of a completely enclosed building at any one time;



- B. In a General Industrial District there shall not be more than a total of fifty recreational vehicles, construction office trailers or boats located on the site outside of a completely enclosed building at any one time;
- C. All major repair work on recreational vehicles, construction office trailers or boats shall be done only inside a suitable service building;
- D. Recreational vehicles, and boats shall not have fixed connections to electricity, water, gas or sanitary sewer facilities, and at no time shall such equipment be used as a dwelling unit, or housekeeping purposes in the City.
- E. Construction office trailers with fixed connections to electricity and telephone may be used for temporary office and storage use with Zoning Inspector approval.  
(Ord. 2006-64. Passed 12-1-06.)

(h) Parking of Motor Vehicles to be Serviced. The parking of licensed motor vehicles to be serviced at an auto service garage or to be retrieved by vehicles' owners after being serviced, when such vehicles are parked on the same lot as the auto service garage, shall be according to the following regulations:

- (1) A licensed motor vehicle to be serviced or which has been serviced at an auto service garage shall be parked on the lot of such service garage for a period not to exceed 48 hours.
- (2) Motor vehicles to be serviced or which have been serviced at an auto service garage shall only be parked in locations approved on the site plan pursuant to Section 1141.03.

(i) Storage of Commercially Licensed Vehicles. Commercially licensed vehicles of any type shall not be stored on a lot in a Residential District, unless stored in an enclosed garage and only when such vehicle has a valid registration.

(j) **Off-Street Loading.** In any district and in connection with every building or part thereof hereafter erected, adequate loading shall be provided and maintained, on the same lot with the building, which shall be located to assure that:

- (1) Streets, sidewalks, alleys or other public rights-of-way or other public property shall not be used for loading purposes nor shall vehicles being loaded be parked on such areas during loading and unloading.
- (2) No part of any required yard, off-street parking area, or access drive thereto, shall be used for loading or unloading purposes.

(k) **Regulations for Access Drives.** Each parking space and loading space shall be provided access in accordance with the following:

- (1) Lots having 250 feet or less of public street frontage shall be permitted one two-way access drive or pair of one-way drives.
- (2) Lots having more than 250 feet of public street frontage shall be permitted one additional two-way access drive or pair of one-way drives for each additional 250 feet of frontage or fraction thereof. The minimum spacing shall be determined by the layout of the project, subject to site plan review.
- (3) Entrances and exits shall be located to minimize traffic congestion and avoid undue interference with pedestrian access to street corners provided that access drives on corner lots shall be located as far from the street intersection as practical and no access drive shall be located within 50 feet of street intersections as measured from the right-of-way line.
- (4) Access drives shall not be less than 12 feet nor more than 36 feet in width at the property line.
- (5) There shall be no commercial or industrial access drive within 60 feet of any residential district or any public or private school, church or playground, except where another road intervenes.

(l) **Improvement and Maintenance Standards.** Off-street parking and loading facilities including entrances, exits, maneuvering areas, waiting areas, and parking and loading spaces shall be in accordance with the following standards and specifications.

- (1) **Parking space dimensions.** Each off-street parking space, open or enclosed, shall have an area of not less than 162 square feet (measuring 9 feet by 18 feet) exclusive of access drives or aisles.
- (2) **Waiting space dimensions.** Each off-street waiting space for a drive-thru or drive-in facility shall have an area not less than 160 square feet (measuring 8 feet by 22 feet) exclusive of access drives and parking aisles.
- (3) **Circulation aisles.** The minimum width for a circulation aisle shall be:
  - A. 26 feet for 90° or perpendicular parking;
  - B. 18 feet for 60° parking;
  - C. 13 feet for 45° parking.
- (4) **Paving.** All required spaces, together with driveways and other circulation aisles, shall be surfaced either with concrete bituminous surface or any surface equal to or superior to either of these types.
- (5) **Drainage.** All required spaces, together with driveways and other circulation aisles, shall have adequate provision for underdrainage and for the disposal of storm water, so that water shall not flow onto adjoining property or adjacent sidewalks in a quantity or manner that would be detrimental thereto, or inconvenient to persons using the sidewalk.

- (6) **Curbs.** A curb at least four (4) inches high shall be installed and maintained along the perimeter of a parking or loading area in accordance with the following:
  - A. When abutting a landscaped area;
  - B. When located in the front yard;
  - C. When a commercial or public parking lot is located adjacent to a Residential District.
- (7) **Markings.** The location of each parking space and the location and direction of movement along the driveways providing access thereto shall be indicated by painting upon the surface, by raised directional signs, or by markers or other similar measures placed in the surfacing.
- (8) **Screening.** Screening and landscaping of parking areas shall be provided pursuant to Sections 1117.03(e), 1121.03(e) and 1125.03(d).
- (9) **Lighting.** Wherever the parking lots or garages are to be used during darkness, a system of floodlighting shall be installed to provide an adequate standard of illumination over the entire parking lot. All floodlights shall be shielded so that a minimum glare will extend to adjacent property.
- (10) **Maintenance.** A parking lot or garage shall be maintained in a manner to keep it as free as practicable from dust, paper and other loose particles, and snow and ice shall be promptly removed by the operator. All adjacent sidewalks shall be kept free from dirt, ice, sleet and snow and in a safe condition for use by pedestrians. All signs, markers or any other methods used to indicate direction of traffic movement and location of parking spaces shall be maintained in a neat and legible condition. Any walls, trees and shrubbery, as well as surfacing of the parking lot or garage, shall be maintained in good condition throughout its use for parking purposes. All exposed concrete walls shall be painted or finished.  
(Ord. 1991-88. Passed 11-4-92.)

#### 1129.03 SIGN REGULATIONS.

(a) **Purposes.** The purposes of this Section are to promote the general health, safety and welfare of the residents of the City by establishing sign regulations, as necessary, to assure that all current issues related to signs are addressed. More specifically, the purposes are to:

- (1) Promote attractive and maintain high value residential districts.
- (2) Provide reasonable, yet appropriate, conditions for identifying goods sold or produced or services rendered in Commercial and Industrial Districts.
- (3) Control the size, location and design so that the appearance of permanent signs will be aesthetically harmonious with their surroundings.
- (4) Eliminate any conflict which would be hazardous between business or identification signs and traffic control signs and devices.
- (5) Provide review procedures which enable the City to comprehensively evaluate the appropriateness of the sign to the site, building and surroundings.
- (6) Assure that signs are located and designed to maintain a safe and orderly pedestrian and vehicular environment.

(b) General Terms and Condition.

- (1) Sign means any display, figure, painting, drawing, placard, or other device visible from a public way which is designed, intended, or used to convey a message, advertise, inform, or direct attention to a person, institution, organization, activity, place, object, or product. It may be a structure or part thereof painted on or attached directly or indirectly to a structure. Flags (except for patriotic flags pursuant to subsection (g)(3) hereof), banners, streamers and similar devices intended to attract attention are not considered signs and are therefore prohibited, except for temporary promotional purposes pursuant to subsection (g)(1) hereof.

(2) Determining sign area or dimension.

- A. For a sign which is framed, outlined, painted and otherwise prepared and intended to provide a background for a sign display, the area dimensions shall include the entire portion within such background or frame.
- B. For a sign comprised of individual letters, figures, or elements on a wall or similar surface, or an irregular shaped freestanding sign, the area of the sign shall encompass a regular, or a combination of regular geometric shapes which form, or approximate, the perimeter of all the elements in the display. When separate elements are organized to form a single sign but the elements are separated by open space, the area shall be calculated by determining the geometric form or combination of forms which comprise all the display area including the space between the elements.
- C. The sign area shall include the frame, but shall not include the pole or other structural support unless such pole or structural support is illuminated or otherwise so designated to constitute a display surface or device.
- D. The height of a sign shall be measured from the average grade under the sign to the top of the highest most element.
- E. A freestanding sign shall have no more than two display surfaces provided that the two display surfaces are arranged back-to-back, parallel and not more than eighteen (18) inches from each other.
- F. In the event there is a dispute in determining the sign area or any sign dimension, the Planning Commission shall have the final responsibility for making such determination.

- (3) Determining building and tenant frontage. The length of the building or unit of the building which faces the principal street or the length of the wall of the building or unit which contains the main entrance to the uses therein shall be considered the building frontage. In the case of an irregular wall surface, a straight line extended along such wall surface shall be used to measure the length. Only one exterior wall of any business shall be considered its frontage. The portion of a building which is owned or leased by a single tenant shall be considered a building unit. The length of a unit is that portion of the building so occupied by a single activity and calculated proportionally in the same manner as the building frontage.

(4) Types of signs - physical characteristics.

- A. **Freestanding.** A sign which is supported from the ground or a structure, other than a building.
- B. **Portable.** A sign which is designed to be moved and is not permanently, or intended to be permanently, attached to a building, structure or the ground.
- C. **Projecting.** A sign erected on the outside wall of a building and which projects out at an angle therefrom.
- D. **Wall Sign.** A sign erected parallel to, or painted on the surface, or on the outside wall of any building, and not extending more than eighteen (18) inches therefrom, and which does not project above the roof line or beyond the corner of the building. A sign on the inside of a building affixed to, or near, a window for the purposes of being visible to and read from the outside of the building and containing information typically found on identification or instructional signs shall, for the purposes of these regulations, be considered a wall sign. (Ord. 1991-88. Passed 11-4-92.)

(5) Types of signs - functional.

- A. **Subdivision or project identification.** A sign identifying the name and address of a completed residential subdivision, a multiple-family development, and/or office, industrial park or subdivision. Such a sign in an office complex or industrial park may include a directory of uses.
- B. **Directional.** A sign directing or guiding traffic and parking on private property with no part of any such sign more than four (4) feet above grade.
- C. **Identification.** A sign intended to announce or promote the use, activity, service or business on the premises.
- D. **Instructional signs.** A sign intended to instruct employees, customers or users as to specific parking requirements; the location or regulations pertaining to specific activities on the site or in the building; specific services offered, or methods of payments accepted. In residential districts, instructional signs may include security identification, no trespassing signs, signs identifying presence of animals, directing deliveries, etc.
- E. **Name plate.** A sign indicating only the name and address of the person, business, profession or activity occupying the lot, building(s) or part of the operation or maintenance of any equipment which is placed on the building or site.
- F. **Project construction sign.** A temporary sign identifying the name of a subdivision, building or public works project or facility during the time of construction.
- G. **Political sign.** A temporary sign advocating action on a public issue or promotion of a candidate for public office.

- H. Required (public safety). A sign erected by a public authority, utility, public service organization or private industry upon the public right-of-way or on private property which is required by law or otherwise intended to control traffic, direct, identify or inform the public, or provide needed public service as determined by the rules and regulations of governmental agencies or through public policy.
- I. Real estate. A sign which directs attention to the promotion, development, rental, sale or lease of the property on which the sign is located.
- J. Temporary. A sign of any type (other than project construction, real estate or political) intended to announce special events, promotions or sales.
- K. Billboard. Means a sign which is primarily intended to direct attention to a specific business, product, service, entertainment or any other activity sold, offered or conducted elsewhere than upon the same lot or premises on which the sign is located and which may, subject to the provisions of this section, contain noncommercial message.  
(Ord. 2006-64. Passed 12-1-06.)

(c) Maximum Sign Areas Permitted.

- (1) Signs as permitted in the respective zoning districts shall conform to the maximum area requirements in Schedule 1129.03(c) unless regulations are otherwise specified in this Zoning Ordinance.
- (2) The maximum permitted area for identification and instructional signs in Commercial and Industrial Districts is two (2) square feet for each lineal foot of building frontage which applies to the total of all types of signs (wall, projecting or freestanding). Instructional signs, which are clearly intended for instructional purposes, are not larger than necessary to serve the intended instructional purposes, and are not in locations or possess design characteristics which constitute or serve the purpose of an identification sign, are exempt from the maximum area requirements. Except for signs in windows or on doors, there shall be no more than one identification sign on each building face entitled to have identification.
- (3) For multiple-family or institutional uses, the Planning Commission may approve greater areas for identification signs than specified in Schedule 1129.03(c) if they determine, because of the large size of the facility and its site, that the proposed larger sign will be consistent with the objectives, intent and criteria of these regulations.

(d) Maximum Height Permitted for Freestanding Signs. The maximum height of freestanding signs, when permitted, shall conform to the standards of Schedule 1129.03(d).

## Schedule 1129.03(c)

**MAXIMUM SIGN AREA REGULATIONS**  
(Maximum Areas in Square Feet)

<u>Type of Sign</u>	<u>Single Family</u>	<u>Multiple Family</u>	<u>Institutional<sup>(a)</sup></u>	<u>Commercial/Industrial</u>
Nameplate/Number	2 sq. ft.	2 sq. ft.	2 sq. ft.	2 sq. ft.
Identification - Subdivision	- 20	20 -	20 -	2 x length <sup>(d)</sup> -
Development (Construction)	32 <sup>(a)</sup>	32	32	32
Instructional	2	(a)	(a)	(a)
Required (Public Safety)	(b)	(b)	(b)	(b)
Directional	N.P.	4	4	4
Real Estate - Sale/Rent	6	6	32	32
- Development	--	6	32	32
Political	6	6	6	12
Temporary - Festival/Promotion	N.P.	N.P.	(c)	(c)

Notes to Schedule 1129.03(c)

- (a) No area limitation when signs comply with definition. May be permitted in addition to other signs and area requirements.
- (b) No area limitation.
- (c) No area limitation. However, all signs and their duration must be approved by the Zoning Inspector, and are subject to the regulations of Section 1129.03(g)(1).
- (d) See Sections 1129.03(d) and 1129.03(e) for regulations for freestanding signs.

(e) 32 square feet for subdivision; 20 square feet for new construction on single-family lot.

(f) Includes religious facilities and schools.

N.P. = Not permitted.

Schedule 1129.03(d)

MAXIMUM HEIGHT FOR FREE-STANDING SIGNS  
(When Permitted)

<u>Type of Sign</u>	<u>Single Family</u>	<u>Multiple Family</u>	<u>Institutional<sup>(b)</sup></u>	<u>Commercial/ Industrial</u>
Identification	--	8 ft.	8 ft.	16 ft.
- Subdivision	8 ft.	-	-	-
Development (Construction)	8 ft.	8 ft.	8 ft.	12 ft.
Instructional	5 ft.	(a)	(a)	(a)
Required (Public Safety)	(a)	(a)	(a)	(a)
Directional	4 ft.	4 ft.	4 ft.	4 ft.
Real Estate				
- Sale/Rent	4 ft.	4 ft.	8 ft.	12 ft.
- Development	4 ft.	4 ft.	8 ft.	12 ft.
Political	4 ft.	4 ft.	4 ft.	8 ft.
Temporary				
- Festival/Promotion	(a)	(a)	(a)	(a)

Notes to Schedule 1129.03(d)

(a) No height limitations.

(b) Includes religious facilities and schools.

N.P. = Not permitted.



(e) Requirements For Freestanding Signs in Commercial and Industrial Districts.

- (1) Freestanding signs are only permitted when the principal building is set back from the street right-of-way a minimum of 25 feet and the site has a minimum lot frontage of 100 feet.
- (2) One freestanding identification sign with a maximum area of 40 square feet per sign face, is permitted per project or development, except for facilities on corner lots, and bonuses established for large lots pursuant to subsection (f)(2).
- (3) No portion of any freestanding sign shall be closer to the street right-of-way than a distance equal to the height of the sign or ten (10) feet, whichever is greater. A freestanding sign shall also be a minimum of seventy (70) feet from any residential zoning district and a minimum of ten (10) feet from any side property line.
- (4) Corner lots. One additional freestanding sign may be permitted for a corner lot provided that the corner lot has a total frontage, on both street frontages of at least 300 feet; the second freestanding sign is clearly located to provide identification along the secondary street; and the total area of both freestanding signs shall not exceed 80 square feet. Two signs may only be utilized when spaced a minimum of 200 feet apart as measured along the street right-of-way.

The two signs may be aggregated into a single sign at the corner provided that the area of the single freestanding sign face shall not exceed 60 square feet.

- (5) Content of freestanding signs in multiple-tenant facilities. When a freestanding sign is permitted on a site with more than one tenant, it is the property owner's responsibility to determine if the allowable area shall be devoted to the identification of the building or the project, be a directory for a select group of or all tenants in the project, or be for project identification, or a tenant directory in combination.  
(Ord. 1991-88. Passed 11-4-92.)

(6) Regulations for billboards in General-Industrial (G-I) District and Limited-Industrial District.

A. Within the maximum sign face areas for billboard signs established for the G-I and L-I zoning districts, a single double faced billboard is permitted on a premises provided that it is:

1. Erected on a freestanding sign structure of an approved structural design;
2. Located:
  - a. A minimum of fifty feet from any public right of way;
  - b. In accordance with the Ohio Revised Code requirements;
  - c. So as not to directly face premises in the SF-DH, D-H, AH, MF-PD, and R-B zoning districts; and
3. Shall not be located in a required yard in accordance with Schedule 1125.03(c).
4. A maximum sign area of seven hundred (700) square feet of visible sign area
5. A maximum of sixty-five feet (65') above the ground.

6. On vacant lots, the location of a billboard is governed in accordance with Schedule 1125.03(c) requirements for a principal building.
- B. Billboards shall be processed and evaluated by the Planning Commission in accordance with the review procedures of Section 1129.03(i)(1)A. and all other applicable regulations in this section. (Ord. 2006-64. Passed 12-1-06.)

(f)  
Districts.

Additional Allowances for Identification Signs in Commercial and Industrial

- (1) Corner lots and side and rear entrances. For any use which is on a corner lot or has a customer entrance facing a parking lot (when such parking lot does not face the main street), the maximum allowable area for identification signs may be increased for each such additional frontage. The increase for each such frontage shall be equal to 40 percent of the allowable sign area if the additional frontage were considered the principal frontage. However, no sign area or any bonus frontage shall exceed one (1) square foot per lineal foot of frontage.
- (2) Bonus for freestanding signs on large lots.
  - A. The allowable area of any freestanding sign may be increased by ten (10) square feet of area for every 100 lineal feet of lot frontage, or fraction thereof, greater than 300 lineal feet.
  - B. The total allowable area, according to the provisions of this Section, may be distributed to one freestanding sign for each 250 feet of the lot frontage or fraction thereof.
  - C. The maximum area of a single pole sign shall, however, in no case exceed 60 square feet.
  - D. Notwithstanding the provisions of this Section, the total allowable sign area for identification signs shall comply with subsection (c) hereof.

(g) Supplemental Sign Regulations. In addition to the hereinbefore established regulations, certain signs must comply with specific supplementary regulations, which include the following:

- (1) Temporary promotional signs. Temporary promotional signs, banners, pennants or flags (other than institutional, state, federal or other patriotic flags) intended to promote or advertise special events or sales may be permitted in addition to all other signs and area limitations when complying with the following:
  - A. They shall be displayed only for the duration of the special event or sale, or for a period not to exceed 15 days, whichever is less; and
  - B. Each establishment shall only display signs, banners, pennants or flags for one such special event or sale each 120 days.
  - C. Christmas and other holiday displays are exempt from these regulations. Signs for other special occasions and greetings, which contain no commercial message except as appropriate to the occasion, may be approved by the Zoning Inspector.

- D. Portable and other freestanding temporary signs shall only be permitted pursuant to this Section when placed a minimum of 20 feet from any right-of-way line, and in no case shall such signs be placed on a right-of-way. (Ord. 1991-88. Passed 11-4-92.)
- (2) Political signs. Political signs, whether permanent or temporary, may be displayed in Residential Districts, subject to the following requirements.
- A. No political sign may be placed closer than ten (10) feet to the street line; the maximum area of a political sign is regulated by Schedule 1129.03(c), and the maximum height of such sign is regulated by Schedule 1129.03(d).
- B. Signs shall be placed only with the knowledge and consent of the property owner where the signs are to be placed; and no signs will be displayed on any public property, roadway, dedicated right-of-way, vacant lot, tree, utility pole, fence, traffic sign or other similar location.
- C. No permit shall be required for political signs in Residential Districts. (Ord. 2006-64. Passed 12-1-06.)
- (3) Patriotic flags. State, federal, institutional or other patriotic flags are exempt from these regulations.
- (4) "Garage" sale signs. Residents posting signs in conjunction with a "garage" sale (which term shall include yard sale, porch sale, house sale, toy sale or similar terms) in a house, garage or yard may post a maximum of three signs which shall not be displayed more than two days in advance of the sale. All signs must be removed on the last day of the sale. No permit or fee shall be required.
- (5) Real estate signs. One real estate sign may be permitted for the purpose of advertising the sale or lease of any property according to Schedule 1129.03(c) when located a minimum of 5 feet from the front property line and 20 feet from an adjacent side property line, provided, however, that a corner lot in a commercial or industrial district may have one sign for each street frontage when the signs are separated a minimum of 200 feet as measured along the street right-of-way line.
- (6) Instructional signs in SF-DH and D-H Districts. One directional or no trespassing sign shall be permitted on any building or lot in any SF-DH or D-H District, and the area of such sign must comply with Schedule 1129.03(c).

(h) Design and Construction Standards. In addition to assuring compliance with the numerical standards of these regulations, the Zoning Inspector and the Planning Commission, when approving signs, shall consider the placement and the appropriateness of the proposed sign in relationship to other signs and the other structures both on the premises and in the surrounding areas, and only approve signs which are consistent with the intent, purposes, standards and criteria of the sign regulations. Specific standards for determining the appropriateness of the sign shall include, but not be limited, to the following conditions.

- (1) The size, style and location of the sign shall be appropriate to the activity of the site as prescribed elsewhere in these regulations.
- (2) The sign shall complement the building and adjacent buildings by being designed and placed to enhance the architecture. The sign shall also have a minimum of advertising and reflect the primary purpose of identifying the name and type of establishment.

- (3) Instructional signs shall contain the minimum information and the minimum area necessary to convey the message and instruct the viewer in the safe and efficient use of the facility.
- (4) A sign should be constructed with a minimum of different types of material so as to provide a consistent overall appearance.
- (5) All signs in commercial and industrial districts may be illuminated provided that light sources to illuminate such signs shall be shielded from all adjacent residential buildings and streets, and shall not be of such brightness so as to cause glare hazardous to pedestrians or motorists, or as to cause reasonable objection from adjacent residential districts.
- (6) No flashing or moving parts or illumination shall be permitted for any sign within the City except for changeable copy within the sign message.
- (7) All signs shall be made, constructed, and erected in a professional and workmanlike manner and with materials which are durable for the intended life of the sign.

(i) Administrative Procedures.

- (1) Permit requirement. A permit is required to erect any sign (except real estate signs, garage sale signs and instructional signs in single-family districts) and no permit shall be issued until such signs have been reviewed according to the following:

A. The Planning Commission shall have the responsibility to review and approve (or disapprove):

- 1. Identification signs, including all freestanding signs;
- 2. Subdivision or project identification signs.

All signs subject to Planning Commission approval shall meet the submission requirements of Section 1141.03(a)(3) and be reviewed according to the procedures for site plan review in Section 1141.03(a)(4).

B. The Zoning Inspector shall have the responsibility to review and approve (or disapprove):

- 1. Directional signs;
- 2. Construction signs;
- 3. Instructional signs;
- 4. Real estate signs (except for sale or rent of single-family homes or sublots);
- 5. Political signs;
- 6. Temporary promotional signs,

and shall authorize the issuance of a permit for such sign when the Zoning Inspector determines that the sign complies with all provisions of these regulations. The Zoning Inspector may refer the decision on any of the above signs to the Planning Commission for consideration if the Zoning inspector determines that the sign, as proposed, is more appropriately the responsibility of the Planning Commission.

C. Real estate signs for single-family homes or sublots, required public safety signs, name plates in single-family districts, garage sale signs and instructional signs in single-family districts are exempt from the administrative review procedures herein. Notwithstanding this exception, all such signs must comply with all requirements herein.

(2) Application requirements.

- A. An application for a sign permit shall be made to the Zoning Inspector. The application shall include two copies, one copy depicting the actual colors of the building and sign(s) (either drawing or photo) with the second copy at 8-1/2" x 11" size and suitable for reproduction. The application shall present the sign(s) in a manner which best illustrates how the sign(s) will be experienced by the public after it is erected on the site. Specifically, the application shall include:
1. A complete building sketch or photograph (or site plan for freestanding signs) showing the location of the sign and its relationship to the building, the site, the adjacent parcels, and parking lots, drives, and sidewalks;
  2. Detailed drawings showing the design of the sign, including size, content, logo, and other graphic features of the applied lettering and background, and materials of the signs, the frame and supporting structure; and
  3. A fee as established by City Council.
- B. For multi-tenant buildings in Commercial or Industrial Districts, the Planning Commission may approve with the development plans for new buildings, or at the time a specific sign request is made for a tenant identification sign in an existing building, basic sign parameters as to the location, size and style of each tenant sign and authorize the Zoning Inspector to specifically approve the subsequent individual tenant signs upon specific application when such proposed signs comply with the parameters established by the Planning Commission.

(3) Maintenance.

- A. The property owner, owner of the sign, tenant, or agent is required to maintain the sign in a condition fit for the intended use and in good repair and has a continuing obligation to comply with all building code requirements.
- B. A sign in good repair shall be free of peeling or faded paint, shall not be stained, show uneven soiling or rust streaks; shall not have chipped, cracked, broken, bent letters, panels or framing; shall not otherwise show deterioration; and shall comply with all other applicable maintenance standards of the City.
- C. If the sign is deemed by the Zoning Inspector to be in an unsafe condition, such sign shall be considered an unsafe building and structure and all City regulations applicable for the repair and removal of such sign shall apply.
- D. Whenever any sign, either conforming or nonconforming to these regulations, is required to be removed for the purpose of repair, relettering, or repainting, the same may be done without a permit, or any payment of fees, provided there is no alteration or enlargement to the structure or the mounting of the sign itself, and the sign is accessory to a legally permitted or nonconforming use.

- (4) Alteration and removal of nonconforming signs.
- A. Consistent with the purposes of this Zoning Ordinance, every graphic or other sign in violation of any provision of this Section shall only be removed, altered or replaced so as to conform with the provisions of this Zoning Ordinance and any sign which, on the effective date of this Zoning Ordinance or any amendments thereto, does not comply to the regulations herein shall be deemed nonconforming.
- B. Nonconforming permanent signs shall be removed and any subsequent modification or replacement (excluding routine maintenance pursuant to subsection (i)(3) above) shall conform to all requirements of these regulations:
1. When more than fifty percent (50%) of the value of the sign has been destroyed or been removed;
  2. When the use for which the nonconforming sign is accessory, is vacant for 90 consecutive days;
  3. Following five years from the date of the adoption of these regulations, or five years from the date of any amendment to these regulations which made the sign nonconforming.
- C. Nonconforming temporary signs shall be removed following one year from the date of the adoption of these regulations, or one year from the date of any amendment to these regulations which made the sign nonconforming, and any subsequent modification or replacement (excluding routine maintenance pursuant to subsection (i)(3)) shall conform to all requirements of subsection (g)(1).
- D. A nonconforming sign shall not be altered, modified or reconstructed other than to comply with these regulations, except:
1. When the existing use has new ownership which results in a change of the name of the use or the business on the property;
  2. When the space is reoccupied by a similar use, and the new occupant requires no external building or site renovation; and
  3. When such replacement sign pursuant to subsection (i)(4)D.1. or 2. above may be accomplished without any alteration or changes to the structure, framing, erection or location of the sign unless such changes conform to these regulations. (Ord. 1991-88. Passed 11-4-92.)

**CHAPTER 1131**  
**Wireless Communication Facilities**

<b>1131.01</b>	<b>Purpose and legislative intent.</b>	<b>1131.16</b>	<b>Action on an application for a Special Use Permit for Wireless Telecommunications facilities.</b>
<b>1131.02</b>	<b>Title.</b>		
<b>1131.03</b>	<b>Severability.</b>		
<b>1131.04</b>	<b>Definitions.</b>	<b>1131.17</b>	<b>Recertification of a Special Use Permit for Wireless Telecommunications Facilities.</b>
<b>1131.05</b>	<b>Overall policy and desired goals for Special Use Permits for Wireless Telecommunications and MWISP Facilities.</b>	<b>1131.18</b>	<b>Extent and parameters of Special Use Permit for Wireless Telecommunications and MWISP Facilities.</b>
<b>1131.06</b>	<b>Special Use Permit application and other requirements.</b>	<b>1131.19</b>	<b>Application fee.</b>
<b>1131.07</b>	<b>Location of Wireless Telecommunications Facilities for WTF.</b>	<b>1131.20</b>	<b>Construction permit fees.</b>
<b>1131.08</b>	<b>Shared use of Wireless Telecommunications Facilities and other structures.</b>	<b>1131.21</b>	<b>Performance security.</b>
<b>1131.09</b>	<b>Height of WTF Tower(s).</b>	<b>1131.22</b>	<b>Reservation of authority to inspect Wireless Telecommunications and MWISP facilities.</b>
<b>1131.10</b>	<b>Visibility of WTF facilities.</b>	<b>1131.23</b>	<b>Liability insurance.</b>
<b>1131.11</b>	<b>Security for Wireless Telecommunications and MWISP facilities.</b>	<b>1131.24</b>	<b>Indemnification.</b>
<b>1131.12</b>	<b>Signage.</b>	<b>1131.25</b>	<b>Default and/or revocation.</b>
<b>1131.13</b>	<b>Lot size and setbacks.</b>	<b>1131.26</b>	<b>Removal of Wireless Telecommunications and MWISP facilities.</b>
<b>1131.14</b>	<b>Retention of expert assistance and reimbursement by applicant for WTF facilities.</b>	<b>1131.27</b>	<b>Relief.</b>
<b>1131.15</b>	<b>Exceptions for a Special Use Permit for Wireless Telecommunications and MWISP facilities.</b>	<b>1131.28</b>	<b>Adherence to State and/or Federal rules and regulations.</b>
		<b>1131.29</b>	<b>Conflict with other laws or ordinances.</b>

**1131.01 PURPOSE AND LEGISLATIVE INTENT.**

The telecommunications act of 1996 affirmed the City of Brooklyn authority concerning the placement, construction and modification of wireless telecommunications facilities. The Council of the City of Brooklyn finds that wireless telecommunications facilities may pose a unique hazard to the health, safety, public welfare and environment of the City of Brooklyn and its inhabitants. The council of the City of Brooklyn also recognizes that facilitating the development of wireless service technology can be an economic development asset to the City and of significant benefit to the City and its residents. The City recognizes a specific sub-category of telecommunication provider called Microcell Wireless Internet Service Provider, hereinafter referred to as MWISP, providing high-speed broadband Internet connections using radio waves sent from a ground-based distribution point directly to fixed residential and business locations. All other Wireless Telecommunications Facilities are hereinafter referred to as WTF. In order to ensure that the placement, construction or modification of Wireless Telecommunications and MWISP Facilities are consistent with the City's land use policies, the City is adopting a single, comprehensive, Wireless Telecommunications Facilities application and permit process. The intent of this chapter is to minimize the negative impact of Wireless Telecommunications Facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the City of Brooklyn. (Ord. 2002-62. Passed 1-27-03.)

**1131.02 TITLE.**

This chapter may be known and cited as the Wireless Telecommunications Facilities Siting chapter for the City of Brooklyn. (Ord. 2002-62. Passed 1-27-03.)

**1131.03 SEVERABILITY.**

(a) If any word, phrase, sentence, part, section, subsection, or other portion of this chapter or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

(b) Any Special Use Permit issued under this chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the City Planning Commission. (Ord. 2002-62. Passed 1-27-03.)

**1131.04 DEFINITIONS.**

For purposes of this chapter, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

- (1) "Accessory Facility or Structure" means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications or MWISP Facilities, and located on the same property or lot as the Wireless Telecommunications or MWISP Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.



- (2) "Applicant" means any Person submitting an Application to the City of Brooklyn for a Special Use Permit for Wireless Telecommunications Facilities.
- (3) "Application" means the form approved by the Planning Commission, together with all necessary and appropriate documentation that an Applicant submits in order to receive a Special Use Permit for Wireless Telecommunications or MWISP Facilities.
- (4) "Antenna" means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency signals. Such waves shall include, but not be limited to radio, television, cellular, paging, personal Telecommunications services (PCS), internet, and microwave Telecommunications.
- (5) "City" means the City of Brooklyn, Ohio.
- (6) "Co-location" means the use of the same Telecommunications Tower or structure to carry two or more Antennae for the provision of wireless services by two or more persons or entities.
- (7) "Commercial Impracticability" or "Commercially Impracticable" shall have the meaning in this chapter and any Special Use Permit granted hereunder as is defined and applied under the United States Uniform Commercial Code (UCC).
- (8) "Completed Application" means an Application that contains all information and/or data necessary to enable the Planning Commission to evaluate the merits of the Application, and to make an informed decision with respect to the effect and impact of Wireless Telecommunications and MWISP Facilities on the City in the context of the permitted land use for the particular location requested.
- (9) "Planning Commission" means the City Planning Commission of the City of Brooklyn.
- (10) "Direct to home satellite services" or "Direct Broadcast Service" or "DBS" means only programming transmitted or broadcast by satellite directly to subscribers' premises without the use of ground receiving equipment, except at the subscribers' premises or in the uplink process to the satellite.
- (11) "EPA" means State and/or Federal Environmental Protection Agency or its duly assigned successor agency.
- (12) "FAA" means the Federal Aviation Administration, or its duly designated and authorized successor agency.
- (13) "FCC" means the Federal Communications Commission, or its duly designated and authorized successor agency.
- (14) "Free Standing Tower" means a Tower that is not supported by guy wires and ground anchors or other means of attached or external support.
- (15) "Height" means, when referring to a Tower or structure, the distance measured from the preexisting grade level to the highest point on the Tower or structure, even if said highest point is an Antenna.
- (16) "NIER" means Non-Ionizing Electromagnetic Radiation.
- (17) "Person" means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

- (18) "Personal Wireless Facility" See definition for "Wireless Telecommunications Facilities".
- (19) "Personal Wireless Services" or "PWS" or "Personal Telecommunications Service" or "PCS" shall have the same meaning as defined and used in the 1996 Telecommunications Act.
- (20) "Telecommunication Site" See definition for "Wireless Telecommunications Facilities".
- (21) "MWISP Site" See definition for "Microcell Wireless Internet Service Provider Facilities".
- (22) "Special Use Permit" means the official document or permit by which an Applicant is allowed to construct and use Wireless Telecommunications Facilities or MWISP as granted or issued by the City.
- (23) "State" means the State of Ohio.
- (24) "Telecommunications" means the transmission and reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
- (25) "Telecommunications Structure" means a structure used in the provision of services described in the definition of "Wireless Telecommunications Facilities".
- (26) "MWISP Structure" means a structure used in the provision of services described in the definition of "Microcell Wireless Internet Service Provider Facilities".
- (27) "Temporary" means in relation to all aspects and components of this chapter, something intended to, or that does, exist for fewer than ninety (90) days.
- (28) "Wireless Telecommunications Facilities" or "Telecommunications Tower" or "Telecommunications Site" or "Personal Wireless Facility" except as otherwise provided in subsection (29) hereof means a structure, facility or location designed, or intended to be used as, or used to support, Antennas, as well as antennas or any functional equivalent equipment used to transmit or receive signals. It includes without limit, free standing Towers, guyed Towers, monopoles, and similar structures that employ camouflage technology, including, but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other similar structures intended to mitigate the visual impact of an Antenna or the functional equivalent of such. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, personal Telecommunications services, or microwave Telecommunications, but excluding those used exclusively for fire, police and other dispatch Telecommunications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar Telecommunications.

- (29) "Microcell Wireless Internet Service Provider Facilities" means a structure, facility, or location designed, or intended to be used as, or used to support, Antennas, as well as any functional equivalent equipment used to transmit or receive signals using FCC unlicensed bands, such as 802.11b or 802.11a, for the purpose of using these signals to provide a direct Internet connection to fixed physical locations of residents and/or businesses. It includes without limit any structure or supporting element for the antenna where the maximum height of the supporting structure is eighty (80) feet above grade and the maximum height of any antenna on the same structure is eight (8) feet above grade. Lightning protection elements are not included in the determination of the maximum height of the supporting structure. All facilities not specifically defined under this category become part of the category "Wireless Telecommunications Facilities, WTF."
- (30) "Microcell Wireless Internet Service Provider" means a provider of Internet connectivity using radio waves directly to the physical end-user location and using transmitting and receiving equipment facilities as described in subsection (29) hereof.  
(Ord. 2002-62. Passed 1-27-03.)

**1131.05 OVERALL POLICY AND DESIRED GOALS FOR SPECIAL USE PERMITS FOR WIRELESS TELECOMMUNICATIONS AND MWISP FACILITIES.**

In order to ensure that the placement, construction, and modification of Wireless Telecommunications and MWISP Facilities protects the City's health, safety, public welfare, environmental features and other aspects of quality of life specifically listed elsewhere in this chapter, the Planning Commission hereby adopts an overall policy with respect to a Special Use Permit for Wireless Telecommunications and MWISP Facilities for the express purpose of achieving the following goals:

- (a) Implementing an Application process for person(s) seeking a Special Use Permit for Wireless Telecommunications and MWISP Facilities,
- (b) Establishing a policy for examining an application for and issuing a Special Use Permit for Wireless Telecommunications and MWISP Facilities that is both fair and consistent.
- (c) Establishing reasonable time frames for granting or not granting a Special Use Permit for Wireless Telecommunications and MWISP Facilities, or recertifying or not recertifying, or revoking the Special Use Permit granted under this chapter.
- (d) Promoting and encouraging, wherever possible, the sharing and/or co-location of Wireless Telecommunications Facilities among service providers; MWISP does not co-locate;
- (e) Promoting and encouraging, wherever possible, the placement, height and quantity of Wireless Telecommunications and MWISP Facilities in such a manner as to minimize adverse aesthetic impacts to the land, property, buildings, and other facilities adjacent to surrounding, and in generally the same area as the requested location of such Wireless Telecommunications and MWISP Facilities.  
(Ord. 2002-62. Passed 1-27-03.)

**1131.06 SPECIAL USE PERMIT APPLICATION AND OTHER REQUIREMENTS.**

(a) All Applicants for a Special Use Permit for Wireless Telecommunications or MWISP Facilities or any modification of such facility shall comply with the requirements set forth in this section. The Planning Commission is the officially designated agency or body of the community to whom applications for a Special Use Permit for Wireless Telecommunications and MWISP Facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying, or revoking special use permits for Wireless Telecommunications and MWISP Facilities. The Planning Commission may at its discretion delegate or designate other official agencies of the City to, review, analyze, evaluate and make recommendations to the Planning Commission with respect to the granting or not granting, recertifying or not recertifying or revoking special use permits for Wireless Telecommunications and MWISP Facilities.

(b) An Application for a Special Use Permit for Wireless Telecommunications and MWISP Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the Applicant, shall also sign the Application. At the discretion of the Planning Commission, any intentional and material false or misleading statement in the Application will delay processing the application until appropriate corrections have been made.

(c) Applications not meeting the requirements stated herein or which are otherwise incomplete, may be rejected by the Planning Commission.

(d) The Applicant shall include a statement in writing:

- (1) That the applicant's proposed Wireless Telecommunications or MWISP Facilities shall be maintained in a safe manner, and in compliance in all material respects, with all conditions of the Special Use Permit, without exception, unless specifically granted relief by the Planning Commission in writing, as well as in compliance, in all material respects, with all applicable and permissible local codes, ordinances, and regulations, including any and all applicable City, State and Federal Ordinances, rules, and regulations;
- (2) That the construction of the Wireless Telecommunications or MWISP Facilities is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in the State of Ohio.

(e) No Wireless Telecommunications or MWISP Facilities shall be installed or constructed until the site plan is reviewed and approved by the Planning Commission, and the Special Use Permit has been issued. No WTF shall be approved by the Planning Commission until the site plan has been reviewed by the City Engineer.

(f) All applications for the construction or installation of new Wireless Telecommunications and MWISP Facilities shall be accompanied by a report containing the information hereinafter set forth. Where this section calls for engineering certification, such certification shall be by a qualified Ohio State licensed Professional Engineer, unless otherwise noted. The Application shall include, in addition to the other requirements for the Special Use Permit, the following information:

- (1) Documentation that demonstrates the need for the Wireless Telecommunications or MWISP Facility to provide service primarily within the City;
- (2) Name, address and phone number of the person preparing the report;
- (3) Name, address, and phone number of the property owner, operator, and Applicant, to include the legal form of the Applicant;
- (4) Postal address and tax map parcel number of the property;
- (5) Zoning District or designation in which the property is situated;
- (6) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines; including length and bearings;
- (7) Location of nearest residential structure;
- (8) Location of nearest habitable structure;
- (9) Location, size and height of all structures on the property which is the subject of the application;
- (10) Location, size and height of all proposed and existing antennae and appurtenant structures;
- (11) Type, locations and dimensions of all proposed and existing landscaping, and fencing;
- (12) For WTF the number, type and design of the Telecommunications Tower(s) Antenna(s) proposed and the basis for the calculations of the Telecommunications Tower's capacity to accommodate multiple users; MWISP does not co-locate;
- (13) The make, model and manufacturer of the Tower and Antenna(s);
- (14) A description of the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- (15) The frequency, modulation and class of service of radio or other transmitting equipment;
- (16) Transmission and maximum effective radiated power of the Antenna(s);
- (17) Direction of maximum lobes and associated radiation of the Antenna(s);
- (18) For WTF, certification that NIER levels at the proposed site will be within the threshold levels adopted by the FCC; MWISP equipment is pre-certified;
- (19) For WTF, certification that the proposed Antenna(s) will not cause interference with existing telecommunications devices, which certification shall be reviewed by a licensed engineer designated by City;
- (20) For WTF, a copy of the FCC license applicable for the use of Wireless Telecommunications Facilities;
- (21) For WTF certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities on the proposed site, which certification shall be reviewed by a licensed engineer designated by the City;
- (22) For WTF propagation studies of the proposed site and all adjoining proposed, in-service or existing sites;
- (23) WTF applicants shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the Applicant to share any new Telecommunication Tower that it constructs.

(g) In the case of a new Telecommunication Tower for WTF, the Applicant shall be required to submit a written report demonstrating its efforts to secure shared use of existing Telecommunications Tower(s) or use of existing buildings or other structures within the City. Copies of written requests and responses for shared use shall be provided to the Planning Commission.

(h) For WTF the Applicant shall furnish written certification that the Telecommunication Facility, foundation and attachments are designed and will be constructed to meet all local, County, State and Federal structural requirements for loads, including wind and ice loads. For MWISP the Applicant shall provide a copy of comprehensive specifications and installation requirements of each piece of equipment used in the supporting structure from each manufacturer thereof.

(i) For WTF after construction and prior to receiving a Certificate of Compliance, the Applicant shall furnish written certification that the Wireless Telecommunications Facilities are grounded and bonded so as to protect persons and property and installed with appropriate surge protectors. For MWISP the supporting structure's grounding requirements per the comprehensive manufacturer's recommendations must be strictly adhered to. And for MWISP frequency specific surge protection equipment must be utilized in conjunction with each antenna and the attached cabling and a copy of the manufacturer's comprehensive specifications for each piece of surge protection equipment be furnished to the City.

(j) If requested by the Planning Commission, the WTF Applicant shall furnish a Visual Impact Assessment which shall include:

- (1) A "Zone of Visibility Map" which shall be provided in order to determine locations where the Tower may be seen.
- (2) Pictorial representations of "before and after" views from key viewpoints both inside and outside of the City, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. The City, acting in consultation with its consultants or experts, will provide guidance concerning the appropriate key sites at a pre-application meeting.
- (3) An assessment of the visual impact of the Tower base, guy wires and accessory buildings from abutting and adjacent properties and streets.

(k) Any and all representations made by the Applicant to the Planning Commission, on the record, during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the Planning Commission.

(l) For WTF the Applicant shall, in a manner approved by the Planning Commission, demonstrate and provide in writing and/or by drawing how it shall effectively screen from view its proposed Wireless Telecommunications Facilities base and all related facilities and structures.

(m) All utilities from Wireless Telecommunications and MWISP Facilities sites shall be installed underground and in compliance with all Ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. The Planning Commission may waive or vary the requirements of undergrounding installation of utilities whenever, in the opinion of the Planning Commission, such variance or waiver shall not be detrimental to the health, safety, general welfare and environment, including the visual and scenic characteristics of the area.

(n) All Wireless Telecommunications and MWISP Facilities shall contain a demonstration that the Facility will be sited so as to have the least adverse visual effect on the environment and its character, and the residences in the area of the WTF and MWISP Facilities sites.

(o) Both the Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as required by the City. New MWISP support structures must be self-supporting or must use a horizontal support brace attached to a building. MWISP support structures may not use guy wires for support.

(p) At a WTF Site, applicant shall furnish City with a site plan showing an access road and parking for adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and vegetation-cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

(q) A person who holds a Special Use Permit for WTF and MWISP Facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted Wireless Telecommunications Facilities in strict compliance with all current technical, safety and safety-related codes adopted by the City, County, State, or United States, including but not limited to, the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsibly workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.

(r) A holder of a Special Use Permit granted under this chapter shall obtain, at its own expense, all permits and licenses required by applicable rule, regulation or chapter, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the Applicant.

(s) The Planning Commission may conduct an environmental review of the proposed project in combination with its review of the Application under this chapter. Applicant shall provide written documentation that it is in compliance with all Federal, State and Local Environmental regulations, such as NHPA and NEPA.

(t) An Applicant shall submit to the City Planning Commission the number of completed Applications determined to be needed at a pre-application meeting with the appropriate City official or consultant. A copy of the Application shall be provided to the legislative body of all adjacent municipalities.

(u) WTF Applicants shall examine the feasibility of designing a proposed Telecommunications Tower to accommodate future demand for at least two (2) additional commercial applications, for example, future co-locations. The scope of this examination shall be determined by the Planning Commission. The Telecommunications Tower shall be structurally designed to accommodate at least two (2) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant's Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Telecommunications Tower is not technologically feasible, or is Commercially Impracticable and creates an unnecessary and unreasonable burden, based upon:

- (1) The foreseeable number of FCC licenses available for the area;
- (2) The kind of Wireless Telecommunications Facilities site and structure proposed;
- (3) The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;
- (4) Available space on existing and approved Telecommunications Towers.

(v) WTF applicants shall submit to the Planning Commission a letter of intent committing the owner of the proposed new Tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed Tower by other Telecommunications providers in the future. This letter shall be filed with the Planning Commission. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the Special Use Permit. The letter shall commit the new Tower owner and their successors in interest to:

- (1) Respond within 60 days to a request for information from a potential shared-use Applicant;
- (2) Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;
- (3) Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.

(w) For WTF unless waived by the Planning Commission, there shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting process. A pre-application meeting may also include a site visit.

Costs of the City's consultants to prepare for and attend the pre-application meeting will be borne by the Applicant.

(x) The holder of a Special Use Permit shall notify the City of Brooklyn before making any material modification of a Wireless Telecommunication Facility and shall apply to the City to materially modify, relocate or rebuild a Wireless Telecommunications Facility. MWISP Special Use Permit holders may modify antenna arrangements without a modification permit. All other Support structure modifications require application for a permit.



(y) A new WTF Tower Applicant, upon request of the Planning Commission shall, hold a "balloon test" as follows: Applicant shall arrange to fly, or raise upon a temporary mast, a brightly colored balloon, minimum diameter of three (3) feet at the maximum height of the proposed new Tower. The Applicant shall inform the Planning Commission, in writing, of the dates and times of the test, including a second date, in case of poor visibility on the initial date, at least fourteen (14) days in advance. The balloon shall be flown for at least eight consecutive hours sometime between 7:00 am and 4:00 pm of the dates chosen. The primary date shall be on a week-end, but the second date, in case of poor visibility on the initial date, may be on a week day.

(z) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the WTF Tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Regulation Part 77. This requirement shall be for any new tower, or for an existing structure or building where the application increases the height of the structure or building. If this analysis determines, that the FAA must be contacted, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided in a timely manner by the Applicant.  
(Ord. 2002-62. Passed 1-27-03.)

#### **1131.07 LOCATION OF WIRELESS TELECOMMUNICATIONS FACILITIES FOR WTF.**

(a) Applicants for Wireless Telecommunications Facilities shall locate, site and erect said Wireless Telecommunications Facilities in accordance with the following priorities, one (1) being the highest priority and four (4) being the lowest priority.

- (1) On existing Telecommunications Towers or other tall structures;
- (2) Co-location on a site with existing Wireless Telecommunications Facilities or structures;
- (3) On municipally-owned properties;
- (4) On other property in the City .

(b) If the proposed property site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.

(c) An Applicant may not by-pass sites of higher priority by stating the site presented is the only site leased or selected. An Application shall address co-location as an option and if such option is not proposed, the applicant must explain why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location, shall not be a valid basis for any claim of commercial impracticability or hardship.

(d) Notwithstanding the above, the Planning Commission may approve any site located within an area in the above list of priorities, provided that the Planning Commission finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants.

(e) The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If the site selected is not the highest priority, then a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.

(f) The Applicant shall, in writing, identify and disclose the number and locations of any additional sites that the Applicant has been, or is, considering, reviewing or planning for Wireless Telecommunications Facilities in the City, and all municipalities adjoining the City.

(g) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Planning Commission may disapprove an Application for any of the following reasons:

- (1) Conflict with safety and safety-related codes and requirements;
  - (2) Conflict with traffic needs or traffic Ordinances, or definitive plans for changes in traffic flow or traffic Ordinances;
  - (3) Conflict with the historic nature of a neighborhood or historical district;
  - (4) The use or construction of Wireless Telecommunications Facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
  - (5) The placement and location of Wireless Telecommunications Facilities which would create an unacceptable risk, or the probability of such, to residents, the public, employees and agents of the City, or employees of the service provider or other service providers;
  - (6) Conflicts with the provisions of this chapter.
- (Ord. 2002-62. Passed 1-27-03.)

#### **1131.08 SHARED USE OF WIRELESS TELECOMMUNICATIONS FACILITIES AND OTHER STRUCTURES.**

(a) Shared use of existing WTF Facilities shall be preferred by the City, as opposed to the proposed construction of a new Telecommunications Tower. MWISP facilities cannot be shared. Where such shared use is unavailable, location of Antennas on other pre-existing structures shall be considered and preferred. The Applicant shall submit a comprehensive report inventorying existing Towers and other appropriate structures within four (4) miles of any proposed new Tower Site, unless the Applicant can show that some other distance is more reasonable, and outlining opportunities for shared use of existing facilities and the use of other pre-existing structures as a preferred alternative to new construction.

(b) An Applicant intending to share use of an existing Telecommunications Tower or other structure shall be required to document the intent of the existing owner to share use. In the event of an Application to share the use of an existing Telecommunications Tower does not increase the height of the Telecommunications Tower, the Planning Commission shall waive such requirements of the Application required by this chapter as may be for good cause shown.

(c) Such shared use shall consist only of the minimum Antenna array technologically required to provide service within the City, to the extent practicable, unless good cause is shown. (Ord. 2002-62. Passed 1-27-03.)

**1131.09 HEIGHT OF WTF TOWER(S).**

(a) The Applicant must submit documentation justifying to the Planning Commission the total height of any Telecommunications Tower, Facility and/or Antenna and the basis therefor. Such justification shall be to provide service within the City, to the extent practicable, unless good cause is shown.

(b) Telecommunications Towers shall be no higher than the minimum height necessary. Unless waived by the Planning Commission upon good cause shown, the maximum height shall be one hundred-ten (110) feet, based on three (3) co-located antenna arrays and ambient tree height of eighty (80) feet.

(c) The maximum height of any Telecommunications Tower and attached Antennas constructed after the effective date of this chapter shall not exceed that which shall permit operation without artificial lighting of any kind, in accordance with municipal, county, state, and/or any federal statute, code, rule or regulation.  
(Ord. 2002-62 1-27-03.)

**1131.10 VISIBILITY OF WTF FACILITIES.**

(a) Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by this chapter or other regulatory authority.

(b) Telecommunications Towers shall be of a galvanized finish, or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings as approved by the Planning Commission, and shall be maintained in accordance with the requirements of this chapter.

(c) If lighting is required, Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations, and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within fifteen-hundred (1,500) feet of all property lines of the parcel on which the Wireless Telecommunications Facilities are located.  
(Ord. 2002-62. Passed 1-27-03.)

**1131.11 SECURITY FOR WIRELESS TELECOMMUNICATIONS AND MWISP FACILITIES.**

All Wireless Telecommunications Facilities and Antennas shall be located; fenced or otherwise secured in a manner which prevents unauthorized access. Specifically as follows:

- (a) All Antennas, Towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they not be climbed or run into; and
- (b) Transmitters and Telecommunications control points must be installed such that they are readily accessible only to persons authorized to operate or service them.  
(Ord. 2002-62. Passed 1-27-03.)

**1131.12 SIGNAGE.**

Wireless Telecommunications and MWISP Facilities shall contain a sign no larger than four (4) square feet to provide adequate notification to persons in the immediate area of the presence of an Antenna that has 10 transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be located so as to be visible from the access point of the site and must identify the equipment shelter of the applicant. The sign shall not be lighted unless the Planning Commission shall have allowed such lighting or unless such lighting is required by applicable provisions of chapter. The sign shall be approved by the Planning Commission before installation. No other signage, including advertising, shall be permitted on any facilities, Antennas, Antenna supporting structures or Antenna Towers, unless otherwise required by law. (Ord. 2002-62. Passed 1-27-03.)

**1131.13 LOT SIZE AND SETBACKS.**

(a) All proposed Wireless Telecommunications and MWISP Facilities shall be set back from abutting parcels, recorded rights-of-way and road and street lines a distance sufficient to substantially contain onsite ice-fall or debris from a Tower or Tower failure, and to preserve the privacy and sanctity of any adjoining properties.

(b) All proposed Wireless Telecommunications and MWISP Facilities shall be set back from residential lots and/or residential zoned areas a minimum of two hundred feet, or the height of the tower, whichever is greater. (Ord. 2002-62. Passed 1-27-03.)

**1131.14 RETENTION OF EXPERT ASSISTANCE AND REIMBURSEMENT BY APPLICANT FOR WTF FACILITIES.**

(a) The Planning Commission may hire any consultant and/or expert necessary to assist the Planning Commission in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and any requests for rectification.

(b) An Applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of consultant and expert evaluation and consultation to the Planning Commission in connection with the review of any Application. The initial deposit shall be five thousand dollars (\$5,000); these funds shall accompany the filing of an Application and the City will maintain a separate escrow account for all such funds. The City, its consultants and/or experts shall bill or invoice the City no less frequently than monthly for its services in reviewing the Application and, performing its duties. If at any time during the review process this escrow account has a balance less than two thousand dollars (\$2,000), Applicant shall immediately, upon notification by the City, replenish said escrow account so that it has a balance of at least two thousand dollars (\$2,000). Such additional escrow funds must be deposited with the City before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the City is more than the amount of the actual billing or invoicing at the conclusion of the review process, the difference shall be promptly refunded to the Applicant.

(c) The total amount of the funds set forth in subsection (b) of this section may vary with the scope and complexity of the project, the completeness of the Application and other information as may be needed by the Planning Commission or its consultant/expert to complete the necessary review and analysis. Additional escrow funds, as required and requested by the City, shall be paid by the Applicant. (Ord. 2002-62. Passed 1-27-03.)

**1131.15 EXCEPTIONS FROM A SPECIAL USE PERMIT FOR WIRELESS TELECOMMUNICATIONS AND MWISP FACILITIES.**

(a) No Person shall be permitted to site, place, build, construct or modify, or prepare any site for the placement or use of, Wireless Telecommunications and MWISP Facilities as of the effective date of this chapter without having first obtained a Special Use Permit for Wireless Telecommunications or MWISP Facilities. Notwithstanding anything to the contrary in this section, no Special Use Permit shall be required for those exceptions noted in the definition of Wireless Telecommunications Facilities, such as those used exclusively for fire, police and other dispatch Telecommunications or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar Telecommunications.

(b) Routine maintenance on existing Wireless Telecommunications and MWISP Facilities, shall comply with the requirements of this chapter.

(c) All Wireless Telecommunications Facilities existing on or before the effective date of this chapter shall be allowed to continue as they presently exist, provided however, that any modification to existing Wireless Telecommunications Facilities must comply with this chapter. (Ord. 2002-62. Passed 1-27-03.)

**1131.16 ACTION ON AN APPLICATION FOR A SPECIAL USE PERMIT FOR WIRELESS TELECOMMUNICATIONS FACILITIES.**

(a) The Planning Commission will undertake a review of an Application pursuant to this chapter in a timely fashion, and shall act within a reasonable period of time given the relative complexity of the Application and the circumstances, with due regard for the public's interest and need to be involved, and the Applicant's desire for a timely resolution.

(b) After formally considering the Application, the Planning Commission may approve, approve with conditions, or deny a Special Use Permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the Applicant.

(c) If the Planning Commission approves the Special Use Permit for Wireless Telecommunications Facilities Except, then the Applicant shall be notified of such approval in writing within ten (10) calendar days of the Planning Commission's action, and the Special use Permit shall be issued within thirty (30) days after such approval. Except for necessary building permits, and subsequent Certificates of Compliance, once a Special Use Permit has been granted hereunder, no additional permits or approvals from the Planning Commission, such as site plan or zoning approvals, shall be required for the Wireless Telecommunications Facilities covered by the Special Use Permit.

(d) If the Planning Commission denies the Special Use Permit for Wireless Telecommunications or MWISP Facilities, then the Applicant shall be notified of such denial in writing within ten (10) Calendar days of the Planning Commission's action. (Ord. 2002-62. Passed 1-27-03.)

**1131.17 RECERTIFICATION OF A SPECIAL USE PERMIT FOR WIRELESS TELECOMMUNICATIONS FACILITIES.**

(a) For MWISP Facilities the holder of the Special Use Permit must apply for re-inspection at any time between three (3) months prior to the two (2) year anniversary after the effective date of the Special Use Permit and all subsequent two year anniversaries of the effective date of the original Special Use Permit. For WTF Facilities at any time between twelve (12) months and six (6) months prior to the five (5) year anniversary date after the effective date of the Special Use Permit and all subsequent fifth anniversaries of the effective date of the original Special Use Permit for Wireless Telecommunications Facilities, the holder of a Special Use Permit for such Wireless Telecommunication Facilities shall submit a signed written request to the Planning Commission for recertification. In the written request for recertification, the holder of such Special Use Permit shall note the following:

- (1) The name of the holder of the Special Use Permit for the Wireless Telecommunications Facilities;
- (2) If applicable, the number or title of the Special Use Permit;
- (3) The date of the original granting of the Special Use Permit;
- (4) Whether the Wireless Telecommunications Facilities have been moved, re-located, rebuilt, or otherwise modified since the issuance of the Special Use Permit and if so, in what manner;
- (5) If the Wireless Telecommunications Facilities have been moved, re-located, rebuilt,, or otherwise modified, then whether the Planning Commission approved such action, and under what terms and conditions, and whether those terms and conditions were complied with;
- (6) Any requests for waivers or relief of any kind whatsoever from the requirements of this chapter and any requirements for a Special Use Permit;
- (7) That the Wireless Telecommunications Facilities are in compliance with the Special Use Permit and compliance with all applicable codes, Ordinances, rules and regulations;
- (8) Recertification that the Telecommunication Tower and attachments both are designed and constructed ("As Built") and continue to meet all local, County, State and Federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a qualified Ohio State licensed Professional Engineer, the cost of which shall be borne by the Applicant.

(b) If, after such review, the Planning Commission determines that the permitted Wireless Telecommunications or MWISP Facilities are in compliance with the Special Use Permit and all applicable statutes, local laws, codes, rules and regulations, then the Planning Commission shall issue a recertification Special Use Permit for the Wireless Telecommunications Facilities, which may include any new provisions or conditions that are mutually agreed upon, or required by applicable statutes, Ordinances, local Ordinances, ordinances, codes, rules and regulations. If, after such review, the Planning Commission determines that the permitted Wireless Telecommunications Facilities are not in compliance with the Special Use Permit and all applicable statutes, local laws, codes, rules and regulations, then the Planning Commission may refuse to issue a recertification Special Use Permit for the Wireless Telecommunications Facilities, and in such event, such Wireless Telecommunications Facilities shall not be used after the date that the Applicant receives written notice of such decision by the Planning Commission. Any such decision shall be in writing and supported by substantial evidence contained in a written record.

(c) If the Applicant has submitted all of the information requested by the Planning Commission and required by this chapter, and if the Planning Commission does not complete its review, as noted in subsection (b) of this section, prior to the five (5) year anniversary date of the Special Use Permit, or subsequent fifth anniversaries, then the Applicant for the permitted Wireless Telecommunications or MWISP Facilities shall receive an extension of the Special Use Permit for up to six (6) months, in order for the Planning Commission to complete its review.

(d) If the holder of a Special Use Permit for Wireless Telecommunications or MWISP Facilities does not submit a request for recertification of such Special Use Permit within the time frame noted in subsection (a) of this section, then such Special Use Permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary (second for MWISP) of the original granting of the Special Use Permit, or subsequent fifth anniversaries (second for MWISP), unless the holder of the Special Use Permit adequately demonstrates to the Planning Commission that extenuating circumstances prevented a timely recertification request. If the Planning Commission agrees that there were legitimately extenuating circumstances, then the holder of the Special Use Permit may submit a late recertification request or Application for a new Special Use Permit.

(Ord. 2002-62. Passed 1-27-03.)

#### **1131.18 EXTENT AND PARAMETERS OF SPECIAL USE PERMIT FOR WIRELESS TELECOMMUNICATIONS AND MWISP FACILITIES.**

The extent and parameters of a Special Use Permit for Wireless Telecommunications and MWISP Facilities shall be as follows:

- (a) Such Special Use Permit shall be non-exclusive;
- (b) Such Special Use Permit shall not be assigned, transferred or conveyed without the express prior written notification of the Planning Commission.
- (c) Such Special Use Permit may, following a hearing upon due prior notice to the Applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the Special Use Permit for Wireless Telecommunications and MWISP Facilities, or for a material violation of this chapter after prior written notice to the Applicant and the holder of the Special Use Permit.

(Ord. 2002-62. Passed 1-27-03.)

#### **1131.19 APPLICATION FEE.**

(a) At the time that a person submits an Application for a Special Use Permit for a new Telecommunications Tower, MWISP, or a modification which increases the height of an existing facility, such person shall pay a non-refundable application fee of five hundred dollars (\$500.00) to the City. If the Application is for a Special Use Permit for collocating on an existing Telecommunications Tower or high structure, where no increase in height of the Tower or structure is required, the non-refundable fee shall be two hundred fifty dollars (\$250.00.)

(b) No Application fee is required in order recertify a Special Use Permit for Wireless Telecommunications Facilities, unless there has been a material modification of the Wireless Telecommunications Facilities since the date of the issuance of the existing Special Use Permit for which the conditions of the Special Use Permit have not previously been modified. In the case of any modification, the fees provided in subsection (a) shall apply.

(Ord. 2002-62. Passed 1-27-03.)

**1131.20 CONSTRUCTION PERMIT FEES.**

(a) Prior to construction of a new Telecommunications Tower, MWISP, or co-location on an existing tower or tall structure, a building permit shall be secured by a general contractor, registered with the City of Brooklyn, upon payment of a permit fee of one (1%) percent of the construction cost.

(b) Prior to construction of a new Telecommunications Tower, MWISP, or co-location on an existing tower or tall structure, an electrical permit shall be secured by an electrical contractor, registered with the City of Brooklyn, upon payment of a permit fee of one hundred fifty dollars (\$150.00).

(c) In addition to the above fees, there is a State of Ohio Board of Building Standards three (3%) permit fee surcharge required on all permits regulated by the Ohio Building Code. (Ord. 2002-62. Passed 1-27-03.)

**1131.21 PERFORMANCE SECURITY.**

The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall at its cost and expense, be jointly required to execute and file with the City a bond, or other form of security acceptable to the City as to type of security and the form and manner of execution, in an amount of at least seventy-five thousand dollars (\$75,000) and with such sureties as are deemed sufficient by the Planning Commission to assure the faithful performance of the terms and conditions of this chapter and conditions of any Special Use Permit issued pursuant to this chapter. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until the removal of the Wireless Telecommunications Facilities, and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be a violation of the provisions of the Special Use Permit and shall entitle the Planning Commission to revoke the Special Use Permit after prior written notice to the Applicant and holder of the permit and after a hearing upon due prior notice to the Applicant and holder of the Special Use Permit. (Ord. 2002-62. Passed 1-27-03.)

**1131.22 RESERVATION OF AUTHORITY TO INSPECT WIRELESS TELECOMMUNICATIONS AND MWISP FACILITIES.**

In order to verify that the holder of a Special Use Permit for Wireless Telecommunications Facilities and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, place and construct such facilities, including Towers and Antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, Ordinances, ordinances and regulations and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or other structures constructed or located on the permitted site. (Ord. 2002-62. Passed 1-27-03.)

**1131.23 LIABILITY INSURANCE.**

(a) A holder of a Special Use Permit for Wireless Telecommunications and MWISP Facilities shall secure and at all times maintain public liability insurance for bodily injury, property damage and personal injury, and umbrella insurance coverage, for the duration of the Special Use Permit in amounts as set forth below:

- (1) Commercial General Liability covering bodily injury, property damage and personal injury: \$10,000,000 per occurrence/\$ 10,000,000 aggregate;
- (2) Workers Compensation and Disability: Statutory amounts.



(b) The Commercial General liability insurance policy shall specifically include the City and its officers, employees, committee members, attorneys, agents and consultants as additional named insureds.

(c) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State of Ohio and with a Best's rating of at least A.

(d) The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.

(e) Renewal or replacement policies or certificates shall be delivered to the City at least fifteen (15) days before the expiration of the insurance which such policies are to renew or replace.

(f) Before construction of a permitted Wireless Telecommunications or MWISP Facilities are initiated, but in no case later than fifteen (15) days after the grant of the Special Use Permit, the holder of the Special Use Permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.  
(Ord. 2002-62. Passed 1-27-03.)

#### 1131.24 INDEMNIFICATION.

(a) Any application for Wireless Telecommunication or MWISP Facilities that is proposed for City property pursuant to this chapter, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by this chapter, to at all times defend, indemnify, protect, save, hold harmless, and exempt the City, and its officers, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at, with respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

(b) Notwithstanding the requirements noted in subsection (a) of this section, an indemnification provision will not be required in those instances where the City itself applies for and secures a Special Use Permit for Wireless Telecommunications or MWISP Facilities.  
(Ord. 2002-62. Passed 1-27-03.)

#### 1131.25 DEFAULT AND/OR REVOCATION.

(a) If Wireless Telecommunications or MWISP Facilities are repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this chapter or of the Special Use Permit, then the City shall notify the holder of the Special Use Permit in writing of such violation. Such notice shall specify the nature of the violation or non-compliance and that the violations must be corrected within seven (7) days of the date of the postmark of the Notice, or of the date of personal service of the Notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this chapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the City may, at its sole discretion, order the violation remedied within twenty-four (24) hours.

(b) If within the period set forth in subsection (a) above the Wireless Telecommunications Facilities are not brought into compliance with the provisions of this chapter, or of the Special Use Permit, or substantial steps are not taken in order to bring the affected Wireless Telecommunications or MWISP Facilities into compliance, then the City may revoke such Special Use Permit for Wireless Telecommunications Facilities, and shall notify the holder of the Special Use Permit within forty-eight (48) hours of such action.  
(Ord. 2002-62. Passed 1-27-03.)

#### **1131.26 REMOVAL OF WIRELESS TELECOMMUNICATIONS AND MWISP FACILITIES.**

(a) Under the following circumstances, the City may determine that the health, safety, and welfare Interests of the City warrant and require the removal of Wireless Telecommunications Facilities.

- (1) Wireless Telecommunications Facilities with a permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;
- (2) Permitted Wireless Telecommunications Facilities fall into such a state of disrepair that it creates a health or safety hazard;
- (3) Wireless Telecommunications Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Special Use Permit, or any other necessary authorization.

(b) If the City makes such a determination as noted in subsection (a) of this section, then the City shall notify the holder of the Special Use Permit for the Wireless Telecommunications Facilities within forty-eight (48) hours that said Wireless Telecommunications Facilities are to be removed. The City Building Department may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Telecommunications Facilities.

(c) The holder of the Special use Permit, or its successors or assigns, shall dismantle and remove such Wireless Telecommunications Facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within ninety (90) days of receipt of written notice from the City. However, if the owner of the property upon which the Wireless Telecommunications Facilities are located wishes to retain any access roadway to the Wireless Telecommunications Facilities, the owner may do so with the approval of the Planning Commission.

(d) If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities within ninety (90) days after the permit holder has received notice, then the City may order officials or representatives of the City to remove the Wireless Telecommunications Facilities at the sole expense of the owner or Special Use Permit Holder.

(e) If the City removes or causes to be removed, Wireless Telecommunications Facilities, and the owner of the Wireless Telecommunications Facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the City may take steps to declare the Wireless Telecommunications Facilities abandoned, and sell them and their components.

(f) Notwithstanding anything in this Section to the contrary, the City may approve a temporary use permit/agreement for the Wireless Telecommunications Facilities, for no more ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected Wireless Telecommunications Facilities shall be developed by the holder of the Special Use Permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of the Special Use Permit and the City. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the City may take possession of and dispose of the affected Wireless Telecommunications Facilities in the manner provided in this Section. (Ord. 2002-62. Passed 1-27-03.)

#### **1131.27 RELIEF.**

Any Applicant desiring relief or exemption from any aspect or requirement of this chapter may request such from the Planning Commission, provided that the relief or exemption is contained in the original Application for either a Special Use Permit, or in the case of an existing or previously granted Special Use Permit a request for modification of its Tower and/or facilities. Such relief may be temporary or permanent, partial or complete, at the sole discretion of the Planning Commission. However, the burden of proving the need for the requested relief or exemption, is solely on the Applicant to prove to the satisfaction of the Planning Commission. The Applicant shall bear all costs of the Planning Commission or the City in considering the request and the relief shall not be transferable to a new or different holder of the permit or owner of the Tower or facilities without the specific written permission of the Planning Commission. Such permission shall not be unreasonably withheld or delayed. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted the relief or exemption will have no significant affect on the health, safety and welfare of the City, its residents and other service providers. (Ord. 2002-62. Passed 1-27-03.)

#### **1131.28 ADHERENCE TO STATE AND/OR FEDERAL RULES AND REGULATIONS.**

(a) To the extent that the holder of a Special Use Permit for Wireless Telecommunications or MWISP Facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Special Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

(b) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any and regulations regarding height, lighting, and security are changed and/or are modified during duration of a Special Use Permit for Wireless Telecommunications or MWISP Facilities, then the holder of such a Special Use Permit shall conform the permitted Wireless Telecommunications or MWISP Facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity. (Ord. 2002-62. Passed 1-27-03.)

**1131.29 CONFLICT WITH OTHER LAWS OR ORDINANCES.**

Where this Ordinance differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal Government, the more restrictive or protective of the City and the public shall apply.  
(Ord. 2002-62. Passed 1-27-03.)

## CHAPTER 1133 Nonconformities

**1133.01 Purpose.**  
**1133.02 Nonconforming uses.**

**1133.03 Nonconforming site conditions.**

### **1133.01 PURPOSE.**

Within the districts established by this Zoning Ordinance, or by amendments thereto which may later be adopted, there may be lots, uses of land, structures, and uses of structures and land in combination which were lawful before this Zoning Ordinance was passed or amended, but which now are prohibited, regulated or restricted under the terms of this Zoning Ordinance. The lawful use of any dwelling or structure and of any land or premises existing and lawful at the time of the enactment of this Zoning Ordinance, supplement or amendment thereto, may continue although such use does not conform with the provisions of this Zoning Ordinance, supplement or amendment. Nevertheless, while it is the intent of this Zoning Ordinance that such nonconformities be allowed to continue until removed, they should not be encouraged to survive. Therefore, no nonconformity may be moved, extended, altered, expanded, or used for any other use or structure not permitted elsewhere in the district except as otherwise specifically provided for in this Zoning Ordinance.

- (a) Uses Under Conditional Use Provisions Not Nonconforming Uses. Any use existing at the time of this Zoning Ordinance, or amendments thereto, which is permitted as a conditional use in a district under the terms of this Zoning Ordinance shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use. (Ord. 1991-88. Passed 11-4-92.)

### **1133.02 NONCONFORMING USES.**

All nonconforming uses shall be regulated according to the following provisions.

- (a) Substitution of Nonconforming Uses. A nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification as determined by the Planning Commission provided no structural alterations are made other than those ordered by an authorized public officer to assure the safety of the building or structure. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

- (b) **Provisions for Continuing Nonconforming Uses.** Where, at the time of adoption of this Zoning Ordinance, lawful uses of land or structures exist which would not be permitted by the regulations imposed by this Zoning Ordinance, the uses may be continued so long as they remain otherwise lawful, provided:
- (1) Any structure existing on or before the effective date of this Zoning Ordinance, which does not conform with the provisions of this Zoning Ordinance for the district in which it is located and which hereafter is damaged by fire or other causes, to the extent of less than sixty percent (60%) of its replacement value at the time of destruction or damage, may be restored or reconstructed, provided the structure, when completed, will not differ in location or size from the previously existing structure. However, when the damage or destruction to said structure is greater than 60 percent of its replacement value at the time of destruction or damage, it shall not be restored except in conformity with the regulations of the district in which the structure is situated.
  - (2) Any nonconforming use may be extended throughout the existing building provided no structural alterations are made other than those ordered by an authorized public officer to assure the safety of the building or structure.
  - (3) In the event that a nonconforming use of any dwelling, building or structure and of any land or premises is voluntarily discontinued for a period of one (1) or more years, any future use of said land, buildings or structures shall be in conformity with the provisions of this Zoning Ordinance.
  - (4) Any partially completed building, the actual construction of which has commenced on or before the effective date of this Zoning Ordinance, which building or its intended use when completed, would not conform with the provisions of this Zoning Ordinance for the district in which it is located, may be completed and used as a nonconforming use only for the purpose for which it was originally designed, provided that the building is completed and/or put to use within two (2) years after adoption of this Zoning Ordinance.  
(Ord. 1991-88. Passed 11-4-92.)

#### **1133.03 NONCONFORMING SITE CONDITIONS.**

When a conforming use does not comply with the site development regulations of this Zoning Ordinance, the Zoning Inspector shall only issue a permit for the extension, enlargement or alteration of said structure or site conditions when it is determined that no other requirement of this Zoning Ordinance is violated and the extent of nonconformity is not increased or the alteration brings the site into full conformity with the district regulations.  
(Ord. 1991-88. Passed 11-4-92.)

**CHAPTER 1137  
Administration**

**1137.01 Zoning Inspector.**  
**1137.02 Planning Commission.**

**1137.03 Board of Zoning Appeals.**

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**1137.01 ZONING INSPECTOR.**

(a) **Appointment.** The Zoning Inspector, appointed by the Mayor, shall administer and enforce this Zoning Ordinance. The Zoning Inspector may be provided with the assistance of such other persons as the Mayor may direct.

(b) **Powers and Duties.** The Zoning Inspector shall have the following powers and duties in accordance with the procedures contained in this Section.

- (1) To receive all applications for site plan review, conditional uses, and sign permits, and collect all fees under the Zoning Ordinance. The Zoning Inspector shall promptly review each application submitted to determine compliance with applicable district regulations and submission requirements. If the application is deemed insufficient, the Zoning Inspector shall promptly notify the applicant of necessary changes. If the application is deemed sufficient and the application fee has been paid, the Zoning Inspector shall officially accept the application on that date for consideration of the action(s) requested.
- (2) To maintain a record of all administrative and legislative proceedings under this Zoning Ordinance with respect to site plan approval, appeals, variances and zoning amendments.
- (3) Maintain in current status the Official Zone Map which shall be kept on permanent display in the City offices.
- (4) Conduct inspections of buildings and uses of land to determine compliance with this Zoning Ordinance, and, in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation and ordering corrective action.

- (5) Determine the existence of any violations of this Zoning Ordinance and cause such notifications, revocation notices, or orders for removal of violations to be issued, or initiate such other administrative or legal action as needed, to address such violations.
- (6) To review and approve (or disapprove) applications for certain sign permits pursuant to Section 1129.03(i)(1)B.  
(Ord. 1991-88. Passed 11-4-92.)

#### **1137.02 PLANNING COMMISSION.**

(a) **Powers and Duties.** In addition to the powers and duties established in the City Charter, the Planning Commission shall have the following functions, powers and duties, exercisable in accordance with the procedures contained in this Zoning Ordinance.

- (1) To review and approve or disapprove applications which require site plan review pursuant to Section 1141.03(a) and signs pursuant to Section 1129.03(i)(1)A.
- (2) To approve conditional uses, after review, when the Commission determines that the proposed conditional use complies with all the substantive provisions and is consistent with the general objectives of this Zoning Ordinance.
- (3) To determine that a proposed use that is not explicitly listed or provided for in this Zoning Ordinance is substantially similar to a principal or conditionally permitted use that is listed or provided for in this Zoning Ordinance.
- (4) To consider, on its own volition, or review proposed amendments to the Zoning Ordinance and Map, and submit to the City Council the Commission's recommendations with respect to such proposals.
- (5) To adopt rules or bylaws for the holding of regular and special meetings, for the transaction and disposition of its business and the exercise of its powers. (Ord. 1991-88. Passed 11-4-92.)

#### **1137.03 BOARD OF ZONING APPEALS.**

The Board of Zoning Appeals shall have the powers and shall perform the duties prescribed in the City Charter and in this Zoning Ordinance and shall establish such rules and regulations as it determines to be necessary for taking and hearing of appeals to the Board and other proceedings of the Board.

- (a) **Meetings; Quorum.** Meetings of the Board shall be held at least once a month and at such other times as the Board of Zoning Appeals may determine or upon call of the chairman. All meetings shall be open to the public and the Board shall adopt its own rules of procedure and shall keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact; and shall keep records of its examinations and other official actions. Every rule or regulation, and every order, requirement, decision or determination of the Board shall be recorded by the secretary of the Board of Zoning Appeals and become a public record. The presence of three members shall constitute a quorum for the transactions of all business. The transaction of all business and action by the Board shall be effected by the concurring votes of at least three members.



- (b) **Powers and Duties.** The Board of Zoning Appeals shall have the following powers:
- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, interpretation or determination made by an administrative official or other Board or Commission in the enforcement of this Zoning Ordinance or any amendment adopted pursuant thereto.
  - (2) To authorize, upon appeal, in specific cases, such variance from the terms of the Zoning Ordinance as will not be contrary to the public interest, where owing to special conditions, literal enforcement of the provisions of this Zoning Ordinance will result in undue hardship, and so that the spirit of the Zoning Ordinance shall be observed and substantial justice done.
  - (3) To interpret the zoning district boundaries on the Zone Map, where questions with respect to zoning boundaries may have been raised. In case of any question as to the location of any boundary line between zoning districts, a request for interpretation of the Zone Map may be made to the Board and a determination shall be made by said Board, after formal public notice is given to adjacent and other affected property owners.
  - (4) To adopt rules or bylaws for the holding of regular and special meetings, for the transaction and disposition of its business and the exercise of its powers.
  - (5) To subpoena and require the attendance of witnesses, administer oaths, compel testimony, and the production of books, papers and other evidence pertinent to the issues of the matter before the Board.
- (Ord. 1991-88. Passed 11-4-92.)



## CHAPTER 1141 Administrative Procedures

<b>1141.01</b>	<b>Appeals and variances.</b>	<b>1141.04</b>	<b>Building permits.</b>
<b>1141.02</b>	<b>Conditional use review.</b>	<b>1141.05</b>	<b>Determination of similar uses.</b>
<b>1141.03</b>	<b>Site plan review.</b>	<b>1141.06</b>	<b>Fees.</b>

### **1141.01 APPEALS AND VARIANCES.**

Appeals and variances shall conform to the procedures and requirements of subsections (a) and (b) hereof. As specified in Section 1137.03(b), the Board of Zoning Appeals has appellate jurisdiction relative to appeals and variances. (Ord. 1991-88. Passed 11-4-92.)

(a) **Appeals.**

- (1) Appeals to the Board of Zoning Appeals may be taken by any person aggrieved by a decision of the Zoning Inspector, or board of the City. Such appeal must be filed within twenty (20) days after the decision by filing, with the Zoning Inspector and the Court of Common Pleas. Except as otherwise permitted in this Zoning Ordinance, no appeal shall be considered by the Board of Zoning Appeals unless the Board shall find that the written application for the requested appeal contains all of the following requirements:
  - A. Name, address, and phone number of applicant(s)
  - B. Legal description of property;
  - C. Description or nature of appeal requested;
  - D. A fee as established by City Council;
  - E. Narrative statements establishing and substantiating the justification of the grounds for the appeal.
 (Ord. 2006-64. Passed 12-1-06.)
- (2) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Inspector certifies to the Board of Zoning Appeals after the notice of appeal is filed with him that, by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life and property; in such case, proceedings shall not be stayed unless directed by the Board of Zoning Appeals.
- (3) The Zoning Inspector shall transmit to the Board of Zoning Appeals all papers constituting a record upon which the action appealed from was taken. (Ord. 1991-88. Passed 11-4-92.)

- (4) Before making any decision on an appeal, the Board of Zoning Appeals shall hold a public hearing. Such hearing shall be held within sixty (60) days of acceptance of the application for appeal by the Zoning Inspector. The Board shall fix the date for the public hearing. Notices of the time and place of such hearing shall be mailed by the Zoning Inspector at least ten (10) days before the date of the hearing to the appellant, all Council Members and to owners of all property within one hundred (100) feet of the site, lot or parcel in question and to owners of any other property deemed by the Zoning Inspector to be affected. Owners and addresses shall be determined from current records of the County Recorder. The notice shall contain the same information as required in the notice published in the newspaper and advise recipients of their right to comment either in person at the meeting or in writing to the Board of Zoning Appeals. The Zoning Inspector shall also cause notice of such hearing to be published once no less than seven (7) days prior thereto in a newspaper of general circulation within the City of Brooklyn; said notice shall state the time and place of the hearing.
- (5) The Board of Zoning Appeals shall reach a decision on the appeal within forty-five (45) days of the date of such hearing. The Zoning Inspector shall notify the applicant in writing of the decision of the Board and shall maintain a detailed report of the proceedings and decisions of the Board on each appeal heard by the Board of Zoning Appeals. Such report shall be open to public inspection and copies sent forthwith to each interested party, the Inspector of Buildings, the Chairman of the Planning Commission and President of City Council. The decision of the Board of Zoning Appeals is final, and any further appeals shall be filed with the Court of Common Pleas.  
(Ord. 2006-64. Passed 12-1-06.)
- (6) If the Board of Zoning Appeals shall fail to take action within forty-five (45) days after completion of the hearing, the determination of the Zoning Inspector or other Board or Commission shall be final and the appeal denied. A member of the Board shall not be qualified to vote if he has not attended the public hearing or if he has a direct or indirect interest in the issue appealed.
- (b) Variances. A request for variance may be submitted to the Board of Zoning Appeals by the owner of the property involved or a designated agent.  
(Ord. 1991-88. Passed 11-4-92.)
- (1) Application requirements. Except as otherwise permitted in this Zoning Ordinance, no variance shall be considered by the Board of Zoning Appeals unless the Board shall find that the written application for the requested variance contains all of the following requirements:
- A. Name, address, and phone number of applicant(s);
  - B. Legal description of property;
  - C. Description or nature of variance requested;
  - D. A fee as established by City Council;
  - E. Narrative statements establishing and substantiating the justification for the variance pursuant to subsection (b)(2) hereof.
- (Ord. 2006-64. Passed 12-1-06.)

- (2) Basis for granting a variance. Variance from the terms of this Zoning Ordinance may be granted when the Board determines that such variance will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance would result in practical difficulty. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provision of this Zoning Ordinance would result in practical difficulty. Specifically, the Board shall determine that:
- A. The granting of the variance shall be in accord with the general purpose and intent of the regulations imposed by this Zoning Ordinance on the district in which it is located, and shall not be injurious to the area or otherwise detrimental to the public welfare.
  - B. The granting of the variance will not permit the establishment of any use which is not otherwise permitted in the district.
  - C. Special circumstances or conditions exist which are peculiar to such land or buildings and do not apply generally to land or buildings in the area, and which are such that the strict application of the provisions of this Zoning Ordinance would deprive the applicant of the reasonable use of such land or building. Loss in value shall not justify a variance; unless such loss in value deprives the owner of any beneficial use of the land.
  - D. The condition which is the basis for the variance is not self-created; or established by one who purchased the property with or without knowledge of the restrictions.
  - E. The granting of the variance is necessary for the reasonable use of the land or building, and the variance as granted is the minimum variance that will accomplish this purpose.
  - F. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values of the adjacent area.

The Board may further prescribe any conditions and safeguards that it deems necessary to insure that the objectives of the regulations or provisions to which the variance applies will be met. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a punishable violation under this Zoning Ordinance.

(Ord. 1991-88. Passed 11-4-92.)

- (3) Notice and hearing. The Board of Zoning Appeals shall hold a public hearing within sixty (60) days after the receipt of an application for a variance from the applicant. Notice of such hearing shall be given in one or more newspapers of general circulation in the City once no less than seven (7) days prior thereto in a newspaper of general circulation within the City of Brooklyn. The notice shall set forth the time and place of the public hearing, and the nature of the proposed variance. In addition, written notice of such hearing shall be mailed by the Zoning Inspector by first class mail, at least ten (10) days before the day of the hearing to all owners of property within one hundred (100) feet of the site, lot, or parcel in question, and to owners of any other property deemed by the Zoning Inspector to be affected. The owners' names and addresses shall be determined from current records of the County Recorder. The notice shall contain the same information as required in the notice published in the newspaper and advise recipients of their right to comment either in person at the meeting or in writing to the Board of Zoning Appeals. (Ord. 2006-64. Passed 12-1-06.)
- (4) Board action. Within forty-five (45) days after the public hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the request for variance. The Board shall further make a finding in writing that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building or structure. No variance shall be valid for a period longer than twelve (12) months from the date of such order unless the building permit or zoning approval is obtained within such period, and the erection or alteration of a building is started or the use is commenced within such period. (Ord. 1991-88. Passed 11-4-92.)

#### 1141.02 CONDITIONAL USE REVIEW.

(a) Review Procedures.

- (1) Every application for a conditional use permit shall be made to the Zoning Inspector and submitted by the Zoning Inspector to the Planning Commission for approval and to City Council for confirmation. The application shall include the information required for site plan review pursuant to Section 1141.03(a)(3) and shall be accompanied by the payment of a fee as established by the City Council which fee shall not be refundable. (Ord. 1991-88. Passed 11-4-92.)
- (2) The Planning Commission shall hold a public hearing on the application after notice of such hearing no less than seven (7) days prior thereto in a newspaper of general circulation within the City of Brooklyn. The notice shall set forth the time and place of the public hearing, and the nature of the proposed conditional use request. In addition, written notice of such hearing shall be mailed by the Zoning Inspector by first class mail, at least ten (10) days before the day of the hearing to all owners of property within one hundred (100) feet of the site, lot, or parcel in question, and to owners of any other property deemed by the Zoning Inspector to be affected. The owners' names and addresses shall be determined from current records of the County Recorder. The notice shall contain the same information as required in the notice published in the newspaper and advise recipients of their right to comment either in person at the meeting or in writing to the Planning Commission. (Ord. 2006-64. Passed 12-1-06.)

- (3) Upon conclusion of the public hearing, the Commission shall review the application and the evidence presented at the public hearing to determine if the requested use complies with the intent and specific standards of Section 1129.01. Following review of the application, the Commission shall approve or disapprove the request for a conditional use permit. The Commission may impose additional conditions, stipulations and safeguards it finds necessary for the protection of nearby property and the public health, safety, morals and general welfare.
- (4) Failure of the Planning Commission to act within 90 days, or an extended time period so agreed upon with the applicant, shall, at the applicant's option, be deemed a denial of the conditional use permit.
- (5) Any conditional use approved by the Planning Commission must be confirmed by a majority vote of City Council, otherwise, the request for a conditional use permit is denied.
- (6) Upon confirmation by Council, the Zoning Inspector shall issue a conditional use permit with notation of conditions thereon or attached thereto. The conditional use approval shall be void if the applicant has not received a building permit within twelve (12) months of the date of the conditional use approval. The breach by the applicant of any condition, safeguard or requirement expressed or referred to on the conditional use permit shall render the permit void and shall constitute a violation of the Zoning Ordinance. (Ord. 1991-88. Passed 11-4-92.)

#### 1141.03 SITE PLAN REVIEW.

(a) Site Plan Review.

- (1) Purpose. The purpose of this section is to provide adequate review by the Planning Commission of proposed development that could have an adverse effect on surrounding health, safety, aesthetics, and general welfare of the community without the safeguards of this review, and to assure conformance with the City of Brooklyn Master Plan, Ordinance 2006-32.  
Site plan review shall be required for:
  - A. All new residential, commercial, and industrial construction, and
  - B. Existing or previously approved developments which propose to increase the number of dwelling units in a multiple-family development, expand the floor area of commercial, institutional, recreational uses, or change a use which requires a modification in the amount of parking or the sites circulation.(Ord. 2006-64. Passed 12-1-06.)
- (2) Preliminary plans. An applicant is encouraged to meet informally with the Zoning Inspector prior to submitting plans to the Planning Commission. Additionally, an applicant may request preliminary plan review by the Planning Commission. Preliminary plans should be submitted to the Zoning Inspector ten days prior to the Planning Commission meeting to be scheduled on the agenda. Planning Commission approval of a preliminary development plan indicates that based on the preliminary information submitted to the Planning Commission, the project could satisfy the substantive requirements for the proposed use in the district in which it is to be located and comply with the purpose and basic planning objectives of this Zoning Ordinance. However, such preliminary plan approval does not assure approval of the final development plan. Based on an approved preliminary plan, the applicant may then proceed to prepare final plans in compliance with subsection (a)(3) hereof.

- (3) **Final development plan.** No building permit shall be issued for the addition or construction or use of any building which requires site plan review pursuant to subsection (a)(1) above except in accordance with a development plan approved by the Planning Commission. An application for review of site plan is to be submitted to the Zoning Inspector. It may be filed by a land owner, a developer on behalf of owner or group of owners acting jointly. The Zoning Inspector shall review the application to assure compliance with the submission requirements. If the requirements have not been satisfied, the application is returned to the applicant with the deficiencies noted. A Final Development Plan shall include:
- A. A property location map and topography survey of proposed development area showing the following information: property lines, easements, street rights-of-way, topography lines at two foot intervals, existing buildings and structures, and landscape features, including existing trees and wooded areas and existing drainage patterns for the subject site and surrounding property.
  - B. A proposed site plan, appropriately dimensioned and labeled, including: location and use of buildings; location of structures on surrounding properties; landscaping and screening; utilities and surface drainage; circulation, including driveways, access, sidewalks, parking and loading; description of surface materials including type of pavement, sidewalks, landscaped areas, etc.; and other site improvements, such as lighting and signs.
  - C. Preliminary floor plans and architectural sketches of buildings and other structures.
  - D. Summary table showing total acres and amount of land area devoted to each proposed residential and non-residential use and streets.
  - E. Such other reasonable supplemental information as may be required by the Zoning Inspector or Planning Commission.
  - F. A fee as established by City Council.
- (4) **Review procedures.**
- A. Any administrative review undertaken by City officials or consultants at the request of the Zoning Inspector should be completed and the reports/comments available to the Planning Commission at the time of the Commission's review.
  - B. In reviewing a final development plan, the Planning Commission shall consider the location of buildings, parking areas and other features with respect to the topography of the lot and existing natural features such as streams and large trees; the efficiency, adequacy and safety of the proposed layout of internal streets and driveways, the location of the green area provided, bearing in mind the possible effects of irregularly shaped lots; the adequacy of location, landscaping and screening of the parking lots and such other matters as the Commission may find to have a material bearing upon the stated standards and objectives of the various District regulations. In approving a site plan, the Planning Commission shall find that:



1. The appropriate use and value of property within and adjacent to the area will be safeguarded.
  2. The development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property.
  3. The development will have adequate public service, parking and open spaces.
  4. The plan, to the extent practical, will preserve and be sensitive to the natural characteristics of the site.
  5. Adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property.
  6. Adequate provision is made for storm drainage within and through the site so as to maintain, as far as practicable, usual and normal swales, water courses and drainage areas.
  7. If the project is to be carried out in progressive stages, each stage shall be so planned that the foregoing conditions are complied with at the completion of any stage.
- C. The Planning Commission may either approve, approve with modifications, or reject the proposal. If the Commission finds that a proposed plan of development does not meet the purposes of these regulations, it shall disapprove the plan and shall submit its findings in writing, together with the reasons therefore, to the applicant.
- D. Failure by the Commission to act within ninety (90) days from the time the plan has been deemed complete and accepted per subsection (a)(3), or an extended time period so agreed upon with the applicant, shall, at the applicant's option, be deemed a denial of the site plan application.
- E. A development plan shall remain valid for a period of twelve (12) months following the date of its approval. If at the end of that time construction shall not have diligently begun, then such development plan shall be considered as having lapsed and shall be of no effect unless resubmitted to the Commission and reapproved. All construction and development under any building permit shall be in accordance with the approved site development plan. Any changes in an approved plan shall be resubmitted for approval in accordance with this subsection. (Ord. 1991-88. Passed 11-4-92.)

(b) Design Review.

(1) Purpose. The purpose of this section is to provide adequate review by the Planning Commission of proposed alterations to existing structures that could have an adverse effect on surrounding health, safety, aesthetics, and general welfare of the community without the safeguards of this review, and to assure conformance with the City of Brooklyn Master Plan, Ordinance 2006-32. Design review shall be required for:

- A. Major structural renovations to building exterior which alters the appearance of commercial and industrial structures.

- (2) **Review procedures.** No building permit shall be issued for the addition to or alteration of any existing building which requires site plan & design review pursuant to subsection (a)(1) above except in accordance with a development plan approved by the Planning Commission. An application for design review is to be submitted to the Zoning Inspector. It may be filed by a land owner, a developer on behalf of owner or group of owners acting jointly. The Zoning Inspector shall review the application to assure compliance with the submission requirements. If the requirements have not been satisfied, the application is returned to the applicant with the deficiencies noted. A Final Design Review Plan shall include:
- A. A property location map indicating landscape features, including existing trees and wooded areas and surrounding property.
  - B. A proposed design plan, appropriately dimensioned and labeled, including: location and use of buildings; location of structures on surrounding properties; landscaping and screening; sidewalks, landscaped areas, etc.; and other site improvements, such as lighting and signs.
  - C. Preliminary floor plans and architectural sketches of buildings and other structures.
  - D. Such other reasonable supplemental information as may be required by the Zoning Inspector or Planning Commission.
  - E. A fee as established by City Council.
- (Ord. 2006-64. Passed 12-1-06.)

#### **1141.04 BUILDING PERMITS.**

(a) **Building Permit Required.** Excavations for buildings or site improvements shall not be started, and buildings or structures, or parts thereof, shall not be erected, altered or moved, until a building permit therefore, accompanied by a fee established by City Council, has been applied for and issued by the Inspector of Buildings. The Inspector of Buildings shall not issue any building or occupancy permit until the following applicable findings have been made and any necessary approvals have been granted.

- (1) The Zoning Inspector finds that the application complies with this Zoning Ordinance and other codes and regulations of the City. If the proposed building or use does not clearly comply, the Inspector of Buildings shall not grant variances or make exceptions, unless specifically so authorized.
- (2) The Planning Commission has approved a development plan as required by Section 1141.03(a).
- (3) The Planning Commission has approved and City Council has confirmed a conditional use permit.
- (4) A sign application has been submitted as required by Section 1129.03(i), and approved by the Planning Commission or Zoning Inspector, as specified in Section 1129.03(i).
- (5) For a change in use of conforming building or land, the Zoning Inspector has determined that the proposed use is in conformity with this Zoning Ordinance. (Ord. 1991-88. Passed 11-4-92.)

**1141.05 DETERMINATION OF SIMILAR USES.**

Where a specific use is proposed that is not listed or provided for in this Zoning Ordinance, the Planning Commission may make a determination that the proposed use is substantially similar to a specific use that is listed or provided for as a principal or conditionally permitted use in this Zoning Ordinance. If the Commission finds that a proposed use is substantially similar to a specific principal use listed in this Zoning Ordinance, the similar use shall be permitted as a principal use in those districts where the specifically listed principal use is permitted. If the Commission finds that a proposed use is substantially similar to a specific conditional use listed in this Zoning Ordinance, the similar use shall be permitted as a conditional use in those districts where the specifically listed conditional use is permitted, provided the similar conditional use conforms to the general standards for all conditional uses in Section 1129.01(c), any other numerical or specific standards in Section 1129.01(d) for the specifically listed conditional use to which the proposed use is most similar, and the proposed use is approved for a particular zoning lot in accordance with the administrative procedures of Section 1141.02.

- (a) Standards for Consideration of Similar Uses. The following standards shall be considered by the Planning Commission when making a determination that a use is substantially similar to a principal or a conditional use within a specific district:
- (1) The compatibility of the proposed use with the general classification of uses specified in this Zoning Ordinance.
  - (2) The nature, predominant characteristics, and intensity of the proposed use in relation to the similar principal or conditional use in that district.
  - (3) The size, dimensional requirements, parking requirements, traffic generation potential, and other regulatory considerations normally associated with uses as specified in this Zoning Ordinance.
- (Ord. 1991-88. Passed 11-4-92.)

**1141.06 FEES.**

The City Council shall by ordinance establish a schedule of fees for building permits, amendments, appeals, variances, conditional use permits, sign permits, fence permits, plan approvals, and other procedures and services pertaining to the administration and enforcement of this Zoning Ordinance, after considering the recommendations of the Zoning Inspector with respect to actual administrative costs, both direct and indirect. The schedule of fees shall be posted in the office of the Zoning Inspector, and may be amended only by City Council. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure. (Ord. 1991-88. Passed 11-4-92.)



## **CHAPTER 1145**

### **Amendments**

**1145.01 Authority for amendments.**

**1145.02 Amending procedure.**

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#### **1145.01 AUTHORITY FOR AMENDMENTS.**

City Council may by ordinance, after receipt of recommendation thereon from the Planning Commission, and subject to procedures provided by the City Charter, amend, supplement, change or repeal the regulations, restrictions and boundaries of the zoning districts. In reviewing a proposed zoning amendment, Council shall assure that any changes will not be detrimental to adjacent property owners, structures or uses, and will maintain the health, safety and general welfare of the community. (Ord. 1991-88. Passed 11-4-92.)

#### **1145.02 AMENDING PROCEDURE.**

Amendment of this Zoning Ordinance shall conform to the procedures and requirements of subsections (a) through (e).

- (a) Initiation of Amendments. Amendments to this Zoning Ordinance may be initiated in one of the following ways:
  - (1) By the adoption of a motion by the Planning Commission;
  - (2) By the adoption of a resolution by City Council; or
  - (3) By the filing of an application with the Zoning Inspector by one or more owners of property within the area to be changed or affected by an amendment proposed by such property owners.
- (b) Content of Applications. Applications for zoning text or map amendments shall be on forms supplied by the Zoning Inspector and shall include the following:
  - (1) Completed application form.
  - (2) Map of land to be rezoned, drawn by a registered surveyor with supporting legal descriptions; or the text of a proposed amendment to the language in the Zoning Ordinance.
  - (3) If ten (10) or less parcels are to be rezoned, a list of all property owners and their mailing addresses who are within, contiguous to, or directly across the street from the parcel(s) proposed to be rezoned and others that may have a substantial interest in the case.
  - (4) A fee as established by City Council.

- Zoning Inspector, upon finding that the application materials are complete, shall submit the materials to the Planning Commission at its next meeting.
- (c) Recommendation by Planning Commission. Within sixty (60) days from the receipt of the proposed amendment, the Planning Commission shall transmit its recommendation to City Council. The Planning Commission may recommend that the amendment be granted as requested, it may recommend a modification of the amendment as requested, or it may recommend that the amendment be denied. The written decision of the Planning Commission shall indicate the specific reason(s) upon which the recommendation is based. If a recommendation by the Commission is not made within such sixty (60) day period, a recommendation to grant the amendment as requested shall be presumed.
- (d) Public Hearing by City Council.
- (1) Schedule. Upon receipt of the recommendation from the Planning Commission, City Council shall schedule a public hearing. Said hearing shall be not more than fifty (50) days from receipt of Commission's recommendation.
  - (2) Notice by publication. Notice of the public hearing required by subsection (d)(1) hereof shall be given by City Council by:
    - A. At least one (1) publication in a newspaper of general circulation in the City, with such notice published at least thirty (30) days before the date of the public hearing. The notice shall state the time and place of the public hearing and a summary of the proposed amendment; and
    - B. First class mail, at least twenty (20) days before the date of the public hearing, to all owners of property within, contiguous to, and directly across the street from the area proposed to be rezoned, if the proposed amendment is intended to rezone or redistrict ten (10) or fewer parcels of land, as listed on the County Auditor's current tax list.
- (e) Action of the City Council.
- (1) The City Council shall either adopt or deny the recommendations of the Planning Commission or adopt some modification thereof. In the event the City Council denies or modifies the recommendation of the Planning Commission, it must do so by not less than three-fourths of the full membership of City Council. No such ordinance shall be passed unless it has been fully considered on three different days.
  - (2) Amendments not subject to referendum pursuant to the City Charter shall become effective thirty (30) days after the date of such adoption.  
(Ord. 1991-88. Passed 11-4-92.)

**CHAPTER 1149**  
**Enforcement and Penalties**

<b>1149.01</b>	<b>Enforcement by Zoning Inspector.</b>	<b>1149.03</b>	<b>Entry and inspection of property.</b>
<b>1149.02</b>	<b>Construction and use to be as provided in applications, plans and permits.</b>	<b>1149.04</b>	<b>Order for removal of violation.</b>
		<b>1149.05</b>	<b>Permit revocation.</b>
		<b>1149.06</b>	<b>Penalties and fines.</b>

**1149.01 ENFORCEMENT BY ZONING INSPECTOR.**

The provisions of this Zoning Ordinance shall be administered and enforced by the Zoning Inspector. (Ord. 1991-88. Passed 11-4-92.)

**1149.02 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS AND PERMITS.**

Building permits issued on the basis of plans and applications approved by the Zoning Inspector authorize only the use and arrangement set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Any use, arrangement or construction contrary to that authorized shall be deemed a punishable violation of this Zoning Ordinance. (Ord. 1991-88. Passed 11-4-92.)

**1149.03 ENTRY AND INSPECTION OF PROPERTY.**

The Zoning Inspector, or a designated agent, is hereby granted the power and authority to enter, at reasonable times, any premises in the City to investigate a reported violation of the provisions of this Zoning Ordinance. Prior to entry to any property or structure for such examination or survey, the Zoning Inspector shall obtain the permission of the owner or occupant to inspect. If such permission is denied or cannot be obtained, the Zoning Inspector shall secure a valid search warrant prior to entry. (Ord. 1991-88. Passed 11-4-92.)

**1149.04 ORDER FOR REMOVAL OF VIOLATION.**

The Zoning Inspector is empowered to order in writing the remedying of any condition found to exist in violation of any provisions of this Zoning Ordinance. After such an order is served or posted on the premises, no work, except to correct such violation, shall proceed on any building or tract of land included in the violation, until such violation is corrected. (Ord. 1991-88. Passed 11-4-92.)

**1149.05 PERMIT REVOCATION.**

The Zoning Inspector may issue a revocation notice to revoke a permit or administrative approval which was issued contrary to this Zoning Ordinance or based upon false information or misrepresentation in the application. (Ord. 1991-88. Passed 11-4-92.)

**1149.06 PENALTIES AND FINES.**

It shall be unlawful to erect, establish, locate, construct, reconstruct, enlarge, change, convert, move, repair, maintain, or structurally alter any building, structure or land in violation of any provision of this Zoning Ordinance or any amendment thereto. Any person, firm or corporation who violates this Zoning Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not less than twenty-five dollars (\$25.00) and not more than five hundred dollars (\$500.00) and in addition shall pay all costs and expenses involved in the case. Each day such violation continues after receipt of a violation notice shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. (Ord. 1991-88. Passed 11-4-92.)